

1 MR. FRIEDMAN: Are we ready for  
2 AT&T's next witness?

3 JUDGE HAYNES: We are.

4 MR. FRIEDMAN: That would be Scott  
5 McPhee.

6 JUDGE HAYNES: Good morning,  
7 Mr. McPhee. Will you raise your right hand?

8 WHEREUPON:

9 SCOTT MCPHEE

10 called as a witness herein, having been first duly  
11 sworn, deposeth and saith as follows:

12 JUDGE HAYNES: Thank you.

13 D I R E C T E X A M I N A T I O N

14 BY MR. FRIEDMAN

15 Q. Would you identify yourself, please?

16 A. My name is Scott McPhee.

17 Q. Who do you work for and what is your  
18 position?

19 A. I work for AT&T Services, Inc. I'm  
20 an associate director in their wholesale  
21 regulatory support.

22 Q. You have in front of you AT&T

1 Illinois Exhibit 4, your direct testimony?

2 A. I do.

3 (Document marked as AT&T  
4 Illinois Exhibit No. 4 for  
5 identification.)

6 BY MR. FRIEDMAN:

7 Q. That consists of 19 pages of  
8 questions and answers and two exhibits, JSM 1 and  
9 JSM 2?

10 A. Yes.

11 Q. You prepared that testimony?

12 A. I did.

13 Q. Do you have any corrections to it?

14 A. Yes. On page one, line 12, replace  
15 "Pacific Bell Telephone Company d/b/a AT&T  
16 California" with "AT&T Services, Inc." and on page  
17 four, line 86, delete the word "only" and on line  
18 88 after the word "involved" add the phrase "and  
19 also includes local toll traffic".

20 Q. Local?

21 A. Local-toll traffic.

22 Q. Is that it?

1           A.       Yes.

2           Q.       Let me ask you something about the  
3       correction you made on page one where you changed  
4       Pacific Bell to AT&T Services. Was Pacific Bell  
5       corrected on the date of the testimony?

6           A.       Yes, it was.

7           Q.       You also have in front of you AT&T  
8       Illinois Exhibit 4.1, your rebuttal testimony --

9           A.       Yes.

10          Q.       -- consisting of 44 pages of  
11       questions and answers and four exhibits, JSM 3  
12       through JSM 6?

13          A.       That's correct.

14          Q.       You prepared that rebuttal  
15       testimony?

16          A.       Yes.

17          Q.       Any corrections to it?

18          A.       I do. I have two corrections to the  
19       rebuttal. Page one, line one, the first word  
20       should be "rebuttal" and page five, line 98, the  
21       year should be corrected to 1996.

22          Q.       Is that all?

1           A.       That is it.

2           Q.       With the corrections you've given  
3   us, if you were asked the same questions today  
4   that appear in both pieces of testimony, would you  
5   give the same answers?

6           A.       Yes.

7                   MR. FRIEDMAN:   AT&T Illinois moves  
8   for admission of its Exhibit 4 and 4.1 and their  
9   attachments and these were e-filed on December  
10  5th, 2012, and February 13th, 2013, respectfully.

11                   JUDGE HAYNES:   Any objection?

12                   MR. CHIARELLI:   No objections from  
13  Sprint.

14                   MS. SWAN:   Staff has no objections.

15                   JUDGE HAYNES:   Those exhibits are  
16  admitted as previously filed on E-docket.   Cross?

17                   C R O S S       E X A M I N A T I O N

18                   BY MR. CHIARELLI

19           Q.       Mr. McPhee, can I direct your  
20  attention, please, to your JSM-2 that is attached  
21  to your direct.   Do you see that it includes an  
22  Ameritech tariff page from Part 23 of the Illinois

1 Bell Telephone Company, Illinois CC No. 20?

2 A. Yes.

3 Q. Is that tariff still in effect?

4 A. My understanding is, yes, it is.

5 Q. Do you know how I would access that  
6 tariff?

7 A. I know it's publicly available via  
8 AT&T's Corp website.

9 Q. I'll hand you what is going to be  
10 Sprint Cross -- I'm not sure what the number would  
11 be?

12 JUDGE HAYNES: Fourteen.

13 MR. PFAFF: May I approach?

14 JUDGE HAYNES: Yes.

15 (Document marked as Sprint Cross  
16 Exhibit No. 14 for  
17 identification.)

18 BY MR. CHIARELLI:

19 Q. What I've handed to you I've printed  
20 off from your website what appeared to be  
21 identifications for the Illinois tariff and this  
22 is not intended to be a trick question. I was

1     trying to find it and I couldn't. Do you know how  
2     I would find it on your website?

3             A.       I don't know for sure. It is my  
4     understanding that some of the rates have been  
5     reclassified under a document called a guide book  
6     as opposed to a tariff and I don't know for sure  
7     if that's been done that way or not.

8             MR. ANDERSON: I'm sorry. Could I  
9     interrupt? What was the original schedule you  
10    asked about? Two?

11            JUDGE JORGENSEN: Can you speak into  
12    the microphone?

13            MR. FRIEDMAN: Since I think we're  
14    just trying to get something straight that  
15    shouldn't be terribly controversial, we would  
16    direct your attention to his first exhibit.

17            MR. CHIARELLI: To what?

18            MR. FRIEDMAN: JSM-1, which is the  
19    current tariff, I think.

20            MR. ANDERSON: Right.

21            MR. CHIARELLI: I just wanted to see  
22    the schedule -- the witness' understanding because

1     when I went through it I wasn't sure if it was  
2     indeed all superceded by that or if indeed that's  
3     the case, that's fine.

4                     MR. ANDERSON:  I can tell you that  
5     in 2010 there was a restructuring --

6                     JUDGE HAYNES:  Microphone.

7                     MR. ANDERSON:  In 2010, there was a  
8     restructuring of the tariffs so that material that  
9     would have been in tariff number 20 related to  
10    interconnection, reciprocal compensation and  
11    transiting.  That material was moved to tariff 22  
12    as part of that tariff restructure.

13                    MR. CHIARELLI:  Good enough.

14    BY MR. CHIARELLI:

15                    Q.     Mr. McPhee, with your attorney's  
16    explanation, do you believe that there is a  
17    separate section in the tariff that addresses  
18    tandem switching when tandem switching is provided  
19    in the context of reciprocal compensation as it  
20    was identified in JSM-2?

21                    A.     I would believe that there would be  
22    other listings for tandem switching specific to

1       intercarrier compensation within that tariff.

2               Q.       And would you believe that it would  
3       be similar to what is reflected in 3.1?  Would you  
4       expect there to be the same elements and the same  
5       prices as what is reflected in JSM-2 for  
6       reciprocal compensation in the restructure?

7               A.       I don't recall specifically  
8       comparing those two rate elements.  So I can't  
9       really speak to whether they are the same or  
10      similar.

11              Q.       Do you know today whether or not  
12      there is any difference in the functionality that  
13      is provided when AT&T performs tandem switching  
14      either in the context of transiting or in the  
15      context of terminating a reciprocal compensation  
16      call?

17              A.       I believe -- let me try to answer  
18      your question.  I believe from a network  
19      functionality I believe it performs a similar  
20      function as far as switching.  It is my  
21      understanding from Dr. Currie's testimony that  
22      there are different functionalities that are



1     accounted for in whether the call is terminated  
2     via a transit switch to an AT&T end office for  
3     call termination versus a tandem switch being used  
4     for the transit of traffic across AT&T's network.

5             Q.         So those might be accounting  
6     differences versus functionality differences?

7             A.         A tandem switch I believe routes  
8     traffic generally from a trunk-side to a  
9     line-side.

10            Q.         Do you know does AT&T ILEC provide  
11     transit service to any carrier other than --  
12     Strike that.

13                       MR. CHIARELLI:  I suspect we'll  
14     probably need to go into camera for this series of  
15     questions.  I'm going to be asking about  
16     commercial agreements with --

17                       MR. FRIEDMAN:  I think your question  
18     is okay.  The answer may not be.

19                       MR. CHIARELLI:  Maybe the next  
20     question as well.  I suspect we're going to end up  
21     in camera.

22                       JUDGE HAYNES:  For now, we're not.

1 BY MR. CHIARELLI:

2 Q. Does AT&T provide transit service to  
3 any carrier in Illinois pursuant to commercial  
4 agreements 251(c)(2) interconnection -- 251(c)  
5 interconnection agreement?

6 A. I would assume so based upon the  
7 fact that transit services are contained within  
8 numerous interconnection agreements with other  
9 carriers.

10 Q. So they are contained in other  
11 interconnection agreements, is that right?

12 A. Yes.

13 Q. My question is does AT&T provide  
14 transit service to any carrier in Illinois  
15 pursuant to a commercial agreement instead of an  
16 interconnection agreement?

17 A. I don't know of any specific  
18 carriers. I do know that AT&T Illinois offers  
19 transit service on a commercial arrangement to any  
20 carrier that is interested in negotiating such  
21 terms. I don't know any carrier specific to name.  
22 It's my understanding that there are a small

1     number of carriers that have taken up that  
2     agreement.

3             Q.       Approximately, how many?

4             A.       I'd be speculating, but I'd say less  
5     than ten.

6             Q.       Do you know is the rate that is in  
7     each of those agreements the same rate?

8             A.       I don't know.

9             Q.       Do you know if that rate is higher  
10    or lower than 0.0025?

11            A.       I don't know.

12            Q.       Do you know if that rate is higher  
13    or lower than AT&T's transit traffic tariff rate?

14            A.       I don't know.

15            Q.       Do you have any understanding as to  
16    why somebody would opt for an off tariff agreement  
17    if you don't know whether or not the rates are any  
18    cheaper?

19            A.       It would I suppose depend upon that  
20    carrier's appetite for its transit services  
21    vis-a-vis AT&T Illinois and the terms and  
22    conditions would also be negotiated.  So there

1     would be an entire agreement made up not just of  
2     the rate, but also the terms and conditions and I  
3     don't know the specifics of those terms and  
4     conditions for any given commercial agreement to  
5     know where there might be -- where one might say  
6     tradeoffs.

7             Q.       So you eluded to earlier I believe  
8     it's your view that transit service provided by  
9     AT&T is not required by 251(c)(2), is that  
10    correct?

11            A.       Yes.

12            Q.       And it's basically premised upon the  
13    concept that in AT&T's view transit does not  
14    represent the mutual linking of two networks for  
15    the mutual exchange of traffic between the  
16    respective parties' end users, is that a correct  
17    statement?

18            A.       Generally, yes.  It doesn't --  
19    transit service doesn't fall under  
20    interconnection.

21            Q.       In AT&T's view?

22            A.       That is correct.

1           Q.       Were you in the hearing room when I  
2       asked Ms. Pellerin about the Connecticut transit  
3       proceeding case in which she testified?

4           A.       I was.

5           Q.       Are you familiar -- do you have a  
6       working understanding of the Connecticut -- the  
7       Federal District Court decision regarding transit  
8       in that state?

9           A.       I have knowledge of it, but I have  
10      no working knowledge of it. Ms. Pellerin headed  
11      that effort.

12          Q.       Can I turn your attention to your  
13      rebuttal page three, lines 60 to 64, and I see  
14      that you're expressing some concern there for  
15      Sprint's competitors in that "If this Commission  
16      was to order a TELRIC-based transit rate it should  
17      not do so suddenly in the manner that gives Sprint  
18      an edge over its competitors who are paying the  
19      tariffed rates," do you see that testimony?

20          A.       I do.

21          Q.       Now, the Sprint competitors that  
22      you're referring to that you have some concern

1     about are all also AT&T's competitors, aren't  
2     they?

3             A.        Sure.

4             Q.        Can you explain to me how could AT&T  
5     charging Sprint a new Commission ordered  
6     TELRIC-based transit rate give Sprint an edge over  
7     any carrier who is paying AT&T's tariffed rates?

8             A.        Well, first of all, if that rate  
9     were lower than the tariff rate contained in the  
10    agreements of all the other carriers, Sprint would  
11    have a clear competitive advantage with regard to  
12    using AT&T as a transit service provider.

13            Q.        And you would agree with me if  
14    that's what the Commission orders because the  
15    Commission determines that to be required it's not  
16    any type of unfair edge, is that true?

17            A.        I would think it's unfair. To me,  
18    if it were deemed to be a TELRIC-based rate that  
19    would, to me, generally speak to it being a  
20    statewide rate that would apply to all carriers  
21    and if that rate were unilaterally imposed via  
22    this arbitration specific to Sprint that would put

1 Sprint at a competitive advantage to its other  
2 carriers.

3 Q. So are you saying if the Commission  
4 orders a new transit rate that is lower than  
5 AT&T's ten-year old rate, AT&T is not going to  
6 offer that rate to timely implement it with other  
7 carriers?

8 A. I don't know how that would impact  
9 going forward policy. I do know that other  
10 carriers would still have the contract rates in  
11 their contracts unless and until they took action  
12 to change that rate.

13 Q. Good point. So really it would be  
14 up to that carrier to determine whether or not to  
15 take action, isn't that true?

16 A. I don't know how the Commission  
17 could or could not order that rate be applied  
18 whether it would be applied specific to this  
19 arbitration, which I think it would be, or if it  
20 would be -- I don't know if the carrier would try  
21 and argue, perhaps, it's a change of law if it was  
22 deemed to be a TELRIC rate that is applicable in

1 the State of Illinois. I don't know enough about  
2 how that rate may be available to other carriers  
3 other than them taking their own action.

4 Q. Do you have a general understanding  
5 as to how the opt in, or MFM, provisions of 251  
6 and 252 operate?

7 A. Generally, yes.

8 Q. Okay. Would you agree with me that  
9 if the Commission orders AT&T to provide a new  
10 TELRIC-based transit rate, any carrier that is  
11 currently paying the AT&T tariff transit rate will  
12 actually have several avenues available to get  
13 that new rate from AT&T if they want to?

14 A. I disagree with several avenues. I  
15 can think of one avenue.

16 Q. So depending on the ICA terms the  
17 carrier could invoke a change of law provision to  
18 require AT&T to negotiate an amendment to include  
19 the new rate, couldn't it?

20 A. That's what I don't know with regard  
21 to the legalities of whether -- if it was deemed a  
22 change of law, I could envision some carriers



1 exercising that right.

2 Q. So that's one way. If it doesn't  
3 have a change of law provision, but its agreement  
4 is in what is referred to as Evergreen status, it  
5 could send AT&T a new bona fide request to  
6 negotiate a new agreement to include the new rate  
7 just like Sprint would be getting now, is that  
8 true?

9 A. That's true.

10 Q. And if they don't want to go through  
11 those two processes, they could just opt into the  
12 new Sprint agreement, couldn't they?

13 A. Yes. That opt in, of course, would  
14 entail the inclusion of every single rate and term  
15 and condition of the Sprint agreement and that may  
16 or may not be favorable for all competitive LEC's  
17 in the State of Illinois.

18 Q. Something they have to weigh on a  
19 case-by-case basis whether or not they want to do  
20 that, correct?

21 A. Correct.

22 Q. So it's not a matter of Sprint

1     having an undue edge, it's a matter of do these  
2     people want to exercise their rights or not, is  
3     that a fair statement?

4             A.        Sure.

5             Q.        You make the statement in rebuttal  
6     at page 16, footnote 23, that I believe this is  
7     the way it reads, quote, the fact that Section  
8     251(c)(2) interconnection is subject to Section  
9     252(d)1 pricing does not mean that transit traffic  
10    would be subject to 252(d)(1) TELRIC pricing if  
11    Section 251(c)(2) were read to require AT&T  
12    Illinois to provide a transit service, do you see  
13    that language?

14            A.        Yes.

15                   MR. FRIEDMAN:   Sorry.   Can I have a  
16   second?

17                   MR. CHIARELLI:   Sure.

18                   MR. FRIEDMAN:   The cite?

19                   MR. CHIARELLI:   Rebuttal at page 16,  
20   footnote 23.

21                   MR. FRIEDMAN:   Thank you.

22

1 BY MR. CHIARELLI:

2 Q. You do agree, don't you, that  
3 Section 251(c)(2) interconnection is subject to  
4 Section 252(d)(1) TELRIC pricing, correct?

5 A. For the facilities of  
6 interconnection, that's correct.

7 Q. And I want to focus your attention  
8 on the statement within footnote 23 where you  
9 refer to, quote, Section 251(c)(2) interconnection  
10 is subject to 252(d)(1), end quote. Your  
11 reference to 252(d)(1) means TELRIC pricing,  
12 doesn't it? Stated another way would you agree  
13 with me that 252(d)(1) is the application of  
14 TELRIC prices to facilities?

15 A. Yes.

16 Q. Is it limited to facilities?

17 A. Facilities and equipment.

18 Q. And is it also limited to -- does it  
19 also apply generally to the concept of  
20 interconnection?

21 A. Yes.

22 Q. Okay. If the Commission finds that

1 transit is a 251(c)(2) obligation, what FCC  
2 regulation, if any, are you relying upon to  
3 conclude that the existence of any level of  
4 competition could relieve AT&T of a 251(c)(2)  
5 obligation, i.e., the TELRIC pricing?

6 A. I'm not aware of any FCC provision  
7 to alleviate that pricing, but I'm also not aware  
8 of any FCC provision governing transit pricing.  
9 So I can't point to a provision that negates a  
10 provision that doesn't exist.

11 Q. To make sure I understand your  
12 answer. Are you just simply saying that there is  
13 no TELRIC pricing in your view applicable to  
14 transit and, therefore, there wouldn't be any  
15 exception for that?

16 A. Generally, that's correct. There is  
17 no provision in the Act that requires transit be  
18 priced at TELRIC rates.

19 Q. Okay. But my question is if this  
20 Commission concludes that transit is a 251(c)(2)  
21 obligation and, therefore, it is subject to the  
22 TELRIC pricing requirement, bear with me, let's

1     assume those two things, are you aware of anything  
2     that would relieve AT&T from the TELRIC pricing  
3     with respect to a 251(c)(2) obligation?

4             A.       No, I am not aware of that.

5             Q.       And would you agree with me that --  
6     we don't need to limit this one to transit. As to  
7     a 251(c)(2) obligation generally that is subject  
8     to the TELRIC pricing requirements -- are you with  
9     me --

10            A.       Yes.

11            Q.       -- are you aware of anything in the  
12     FCC regulations that relieves an ILEC of its  
13     obligation to provide TELRIC pricing even if there  
14     is vibrant or robust competition with respect to  
15     the service that they're required to provide at  
16     TELRIC?

17            A.       I am not.

18            Q.       In your original testimony, I did a  
19     word search for the word "competition" and it  
20     appeared three times in your direct and those are  
21     each in reference to the phrase "wireline  
22     composition bureau." Are you aware of any place

1 other than those instances, generally,  
2 specifically, otherwise, where you use the word  
3 "competition" in your direct?

4 A. Not without doing a similar word  
5 search, no.

6 Q. Do you have any reason to believe  
7 that's not the case?

8 A. I'll take your word for it.

9 Q. And you would agree with me -- let's  
10 turn your attention to rebuttal at page three,  
11 line 66.

12 A. I'm sorry. What page?

13 Q. Page three. Line 66. You refer to  
14 "I also want to emphasize a very important  
15 consideration that Mr. Farrar ignores" and you go  
16 on to point out that consideration is the concept  
17 of competition, is that right? Is that what  
18 you're referring to by that sentence that  
19 Mr. Farrar did not mention anything with respect  
20 to competition?

21 A. Yes.

22 Q. So your original direct didn't say

1 anything about competition, Mr. Fararr's direct  
2 testimony didn't say anything about competition,  
3 you'd agree with me that Dr. Rearden's testimony  
4 didn't say anything about the existence or  
5 nonexistence of transit competition? He simply,  
6 quote, expresses the view that it would be in the  
7 public interest for the Commission to make sure  
8 that AT&T Illinois rates are near cost, end quote.  
9 I believe that is at your rebuttal at 28, line 661  
10 to 662. Is that correct?

11 A. It appears to be, yes.

12 Q. So even Dr. Rearden didn't have  
13 anything to say about competition in his direct,  
14 correct?

15 A. Specifically?

16 Q. Correct.

17 A. Yes. I'm trying to think back  
18 without having his testimony committed to memory.

19 Q. Now, you contend on your rebuttal,  
20 and I'll direct you to page 32, line 762. At 762  
21 through 764, that, quote, the only evidence in the  
22 record of this proceeding is AT&T Illinois'

1 evidence that there is ample competition for  
2 transit service in Illinois, end quote, do you see  
3 that language?

4 A. I do.

5 Q. Now, AT&T's position is that there  
6 is sufficient competition for the provision of  
7 transit service that AT&T should be relieved of  
8 the obligation to provide transit service at  
9 TELRIC, is that right?

10 A. I don't know. I think you said  
11 relieved of the obligation to provide transit at  
12 TELRIC. I don't believe AT&T is obligated to  
13 currently offer transit under TELRIC.

14 Q. Okay. So AT&T's original position  
15 in this case didn't assert that the presence of  
16 competition made any difference at all in deciding  
17 the transit issue, did it?

18 A. I'm sorry. Could you please restate  
19 that?

20 Q. Sure. AT&T's original position in  
21 this case did not assert that the presence of  
22 competition made any difference at all in deciding



1 the transit issue, did it?

2 A. I don't believe it was mentioned,  
3 that's correct.

4 Q. In fact, your opening testimony  
5 contains no such evidence, right?

6 A. As you stated it, that's correct.

7 Q. And your rebuttal testimony  
8 regarding transit competition is not responding to  
9 anything in Sprint's opening testimony regarding  
10 transit competition, right?

11 A. Well, I believe I'm responding by  
12 addressing the competition issue to the way  
13 Mr. Farrar painted the issue that all carriers  
14 must use AT&T. All carriers -- it was in response  
15 to his direct testimony that essentially painted  
16 AT&T as the only option available to Sprint. So  
17 that's not the case and that's why the rebuttal  
18 testimony addresses a competitive market. There  
19 are other choices for Sprint.

20 Q. And let me point you to JSM-4, your  
21 exhibit, please. You'd agree with me that that's  
22 got a list of rates, but no detail and none of the

1 underlying tariff provisions that it refers to,  
2 correct?

3 A. That's correct. It's got tariff  
4 cites, but no provisions.

5 Q. So you have not provided any  
6 information that specifies exactly where any given  
7 carrier included in this list may be serving any  
8 given area in Illinois much less the scope of any  
9 NPA-NXX number blocks that may be served in a  
10 given area of Illinois, isn't that true?

11 A. That's correct.

12 Q. If AT&T and its competitors are each  
13 satisfied by whatever particular level of profit  
14 they may be enjoying in the absence of an AT&T  
15 TELRIC-based ceiling, who is watching out for the  
16 Illinois consumer that ultimately bears the cost  
17 in one form or another of above cost transit  
18 rates?

19 A. I'm sorry. Could you restate that,  
20 please?

21 MR. CHIARELLI: Could you read that  
22 back?

1 JUDGE HAYNES: I think you could  
2 restate it.

3 BY MR. CHIARELLI:

4 Q. If the market is not forcing AT&T or  
5 its competitors to offer transit at cost-based  
6 rates, who's protecting the consumers from having  
7 to pay for services that are above cost?

8 A. I think the prices the consumers pay  
9 for their services that they purchase are  
10 market-based rates and how a provider of that  
11 service wants to build in their costs to that rate  
12 I'm not an economist, I don't know. I would think  
13 the market would speak. The consumers would act  
14 based upon their own self interest with regard to  
15 the prices they pay for services that are  
16 provisioned by a specific, in this case, a  
17 carrier. So I would think that the market would  
18 take care of itself. Again, not being an  
19 economist I don't know who specifically -- what  
20 body would govern that, that rating mechanism.

21 Q. And if the market is not doing the  
22 job that it is supposed to, ultimately, high costs

1 just get passed on, don't they?

2 A. That is one thing that could happen.

3 Q. Are you aware whether or not any  
4 purported competition that AT&T claims is  
5 occurring has had any effect on AT&T's ten-year  
6 old transit rate to cause it to be moved even a  
7 fraction of a penny closer to cost?

8 A. First of all, to answer your  
9 question. No, I'm not aware of any market forces.  
10 Second of all, you portrayed it as being -- moving  
11 closer to cost. It's my understanding from  
12 Dr. Currie's testimony that that rate does reflect  
13 costs.

14 Q. Ten-year old costs?

15 A. That would probably be better taken  
16 up with Dr. Currie. When it was promulgated, it  
17 was a cost-based rate.

18 Q. So it's fair to say you don't know  
19 how accurate that rate may or may not be?

20 A. That's correct.

21 MR. CHIARELLI: That's all the  
22 questions I have.

1 JUDGE HAYNES: Okay. Staff?

2 MS. ERICSON: No questions from  
3 staff.

4 JUDGE HAYNES: Okay. Redirect?

5 MR. FRIEDMAN: Just one moment,  
6 please.

7 JUDGE HAYNES: Okay.

8 R E D I R E C T E X A M I N A T I O N

9 BY MR. FRIEDMAN

10 Q. Just a couple of questions.

11 Mr. McPhee, if you'll look back at your rebuttal  
12 testimony page three. Look at lines 61 through 64  
13 again. Do you recall that Mr. Chiarelli asked you  
14 some questions about what Sprint's competitors  
15 could do in order to try to avail themselves of a  
16 rate that if Sprint were to prevail could emerge  
17 in Sprint's interconnection agreement, do you  
18 remember that general subject?

19 A. I do.

20 Q. One thing Mr. Chiarelli suggested  
21 was that a carrier that currently has an  
22 interconnection agreement with AT&T Illinois with

1 a higher transit rate might have an agreement that  
2 is what he called in Evergreen, do you remember  
3 that?

4 A. Yes.

5 Q. And that means an agreement that is  
6 subject to termination within some not terribly  
7 long period of months, right?

8 A. That's my general understanding,  
9 yes.

10 Q. So let's imagine that a carrier has  
11 a contract that is in Evergreen and terminates it.  
12 Do you have any information that would allow you  
13 to indicate about how long that carrier might  
14 expect to wait until it has a new effective  
15 interconnection agreement?

16 A. I believe the negotiation process  
17 and conforming could take nine months, perhaps a  
18 year. If there are issues to be arbitrated, it  
19 could take longer.

20 Q. Do you have any idea how long this  
21 one took?

22 A. I believe we've been negotiating off

1 and on with Sprint for several years.

2 Q. So a carrier in Evergreen who wanted  
3 to avail itself of something that Sprint has could  
4 well expect to wait more than a year to get that  
5 benefit, is that right?

6 A. That would be my expectation, yes.

7 Q. Let's talk about another option  
8 Mr. Chiarelli mentioned and that is a carrier's  
9 right to opt into the agreement that emerges from  
10 this proceeding.

11 Assume that there's a carrier  
12 who currently has an interconnection agreement and  
13 it's not in Evergreen and it has another let's say  
14 19 months left in its term, can that carrier opt  
15 into another agreement?

16 A. I believe it can.

17 Q. Right then or does it have to wait  
18 until its existing agreement is expired?

19 MR. CHIARELLI: Objection. Vague  
20 and ambiguous without showing him that contract.

21 BY MR. FRIEDMAN:

22 Q. Do you have an understanding?

1           A.       I don't have a specific  
2 understanding of it.

3           Q.       All right.

4                   MR. FRIEDMAN:   That's all I have.  
5 Thank you.

6                   R E C R O S S           E X A M I N A T I O N

7                                   BY MR. CHIARELLI

8           Q.       Mr. Friedman just asked you about if  
9 a carrier's interconnection agreement terminated,  
10 do you recall that question?

11          A.       And goes into Evergreen?

12          Q.       No. He said Evergreen and then  
13 terminated. Do you understand it that way?

14          A.       Okay.

15          Q.       So if it's Evergreen and it  
16 terminates, it's gone, correct?

17          A.       Generally, a -- my understanding of  
18 the term Evergreen is the contract has a set  
19 period of time that it is in force and if the  
20 contract contains specific provisions that allow  
21 for it once that expiration passes it goes into  
22 Evergreen, which then allows at some point, I



1 believe, advanced notice and you can either  
2 terminate -- terminate the contract after it goes  
3 into Evergreen, which is generally on a  
4 month-by-month basis if I'm not mistaken.

5 Q. And if nothing happens, it does go  
6 away, correct?

7 A. Evergreen, I believe, the contract  
8 just simply continues.

9 Q. Okay. So it's going to depend upon  
10 the terms and conditions of the Evergreen contract  
11 when a carrier may or may not get the benefit of a  
12 new rate, correct? All of it is going to be  
13 contracted the same, correct?

14 A. As far as getting out of that  
15 contract, yes, but once it goes into Evergreen  
16 they can begin -- one of their options is to  
17 initiate negotiations for a new contract.

18 Q. Right. And if they initiate  
19 negotiations for a new contract, are you aware of  
20 provisions in existing contracts such as Sprint's  
21 that can provide for the new rates and conditions  
22 to become effective as of a given date?

1           A.       I'm not aware of any specific  
2 provisions like that.

3           Q.       So it's really going to be driven by  
4 each carrier's contract, correct?

5           A.       Sure.

6           Q.       You mentioned that we've been  
7 negotiating for about seven years, is that what  
8 you said?

9           A.       No, I said several years.

10          Q.       I'm sorry. I thought you said  
11 seven.

12                   MR. ANDERSON: It just seems like  
13 it.

14 BY MR. CHIARELLI:

15          Q.       You would agree with me -- let me  
16 put it this way. You would not dispute that  
17 Sprint's bona fide request for a new agreement in  
18 this case was sent to AT&T on August 22nd, 2012,  
19 would you, if that's what is reflected in the  
20 record?

21          A.       I would have to see it or take  
22 you -- take your word at it.

1           Q.       I'll show you what was attached to  
2       the petition for the arbitration as Exhibit 4.  
3       Sprint's request to negotiate an interconnection  
4       agreement. Would you agree with me that's dated  
5       August 22nd, 2012?

6           A.       Yes.

7           MR. CHIARELLI: No further  
8       questions.

9           MR. FRIEDMAN: No further questions.

10          JUDGE HAYNES: Thank you. Thank  
11       you, Mr. McPhee. So I feel like we should do the  
12       staff witnesses in Springfield.

13          MS. SWAN: If we could have a moment  
14       off the record.

15          JUDGE HAYNES: Off the record.

16                   (Whereupon, a break was taken  
17                   after which the following  
18                   proceedings were had.)

19          JUDGE HAYNES: Let's go on the  
20       record. Good morning, Dr. Rearden. Please raise  
21       your right hand.

22

1 WHEREUPON:

2 DAVID REARDEN

3 called as a witness herein, having been first duly  
4 sworn, deposeth and saith as follows:

5 JUDGE HAYNES: Thank you.

6 D I R E C T E X A M I N A T I O N

7 BY MR. LANNON

8 Q. Dr. Rearden, can you please state  
9 your full name spelling your last name for the  
10 record?

11 A. David Rearden, R-E-A-R-D-E-N.

12 Q. And who is your employer and what is  
13 your business address?

14 A. Illinois Commerce Commission and my  
15 business address is 527 East Capitol Avenue,  
16 Springfield, Illinois 62701.

17 Q. And what is your position at the  
18 Commission?

19 A. Senior economist.

20 Q. Do you have before you a document  
21 which has been marked as ICC Staff Exhibit 4.0  
22 consisting of a cover page, table of contents page

1 and 29 pages of narrative testimony entitled  
2 Direct Testimony of David Rearden?

3 A. Yes.

4 (Document marked as Staff  
5 Exhibit No. 4.0 for  
6 identification.)

7 BY MR. LANNON:

8 Q. Did you prepare that document for  
9 presentation?

10 A. Yes.

11 Q. And there is no exhibits attached to  
12 that, is there?

13 A. No.

14 Q. Do you have any corrections to make  
15 to Staff Exhibit 4.0?

16 A. I think so, but -- actually, I  
17 wanted to talk to you before I went on the stand.

18 Q. Yeah. I believe I sent that e-mail  
19 back to you. I believe that needs to be done.

20 A. Okay. On page 21, line 470, there  
21 is a reference to the CAF order, or the Connect  
22 America Fund Order, listing paragraph 798 and that

1 is incorrect. I believe that should refer to  
2 paragraphs 1003 through 1008.

3 Q. Do you have any other corrections to  
4 Staff Exhibit 4.0?

5 A. No.

6 Q. Is the information contained in  
7 Staff Exhibit 4.0 true and correct to the best of  
8 your knowledge?

9 A. Yes.

10 Q. And if I were to ask the same  
11 questions set forth in that exhibit, would your  
12 answers be the same today?

13 A. Yes.

14 MR. LANNON: Your Honor, subject to  
15 cross of Dr. Rearden, I move into evidence Staff  
16 Exhibit 4.0.

17 JUDGE HAYNES: Any objection?

18 MR. FRIEDMAN: None from AT&T.

19 MR. PFAFF: No objection.

20 JUDGE HAYNES: Was this previously  
21 filed on E-docket?

22 MR. LANNON: Yes, your Honor.

1 January 15th.

2 JUDGE HAYNES: Thank you. Staff  
3 Exhibit 4.0 as previously filed on E-docket is  
4 admitted. Cross?

5 MR. LANNON: Dr. Rearden is  
6 available.

7 C R O S S E X A M I N A T I O N

8 BY MR. PFAFF

9 Q. Good morning, Dr. Rearden. Can you  
10 hear me okay?

11 A. Yes, I can. Thanks. Good morning.

12 Q. My name is Jeff Pfaff. I'll be  
13 asking you questions today on behalf of Sprint.  
14 If you don't hear me, please remind me and I will  
15 try to restate the question. Do you understand  
16 that?

17 A. Yes.

18 Q. And have you been listening the last  
19 several days to the testimony in this case?

20 A. Yes, on and off. I haven't been  
21 here the whole time.

22 Q. So if I ask you if you heard a

1 particular witness or a particular piece of  
2 testimony, you will let me know, is that correct?

3 A. Yes.

4 Q. Were you here -- did you listen to  
5 Dr. Oyefusi's testimony this morning?

6 A. Yes.

7 Q. And did you hear him testify about  
8 an agreement between AT&T Mobility and AT&T ILEC  
9 for transit services?

10 A. Yes.

11 Q. Were you aware of such an agreement  
12 before his testimony today?

13 A. No.

14 Q. To your knowledge, had anyone at the  
15 Illinois Commerce Commission spoken to you about  
16 that agreement or do you know of anybody else at  
17 the Illinois Commerce Commission who would be  
18 aware of such an agreement?

19 A. I can't speak for anybody else. I  
20 was not aware of it.

21 Q. And did you understand according to  
22 Dr. Oyefusi's testimony -- and I don't believe



1       this is confidential.

2                       MR. PFAFF:   Is the rate  
3       confidential?

4                       MR. FRIEDMAN:   No.

5                       MR. PFAFF:   Okay.   Thank you.

6       BY MR. PFAFF:

7               Q.       I believe he testified that the rate  
8       in that agreement was 0.0025, do you remember  
9       that?

10              A.       Yes.

11             Q.       And that is the rate that AT&T is  
12       charging AT&T Mobility for transit services in  
13       Illinois, did you understand that?

14             A.       That's my understanding.

15             Q.       Okay.   And does that comport then  
16       with your belief that 0.005 is not a cost-based  
17       rate?

18             A.       That is one explanation for it.  
19       There could be a lot of explanations for it.   I  
20       mean, given that single piece of information the  
21       conclusions that I can reach are limited.   It  
22       comports with the testimony of Mr. Fararr, I

1 believe, where he outlines several other transit  
2 rates, switching rates, that are available in  
3 various places.

4 Q. And you understand that Dr. Oyefusi  
5 was referring to what they termed a commercial  
6 agreement, correct?

7 A. I'm not quite sure I understood  
8 that, but --

9 Q. Fair enough. But even in --  
10 regardless of the type of an agreement, you heard  
11 Dr. Oyefusi say that a party would not provide  
12 services at below cost rates, at least not for  
13 very long, did you hear that?

14 A. Yes.

15 Q. Okay. And would you agree with that  
16 opinion?

17 A. Generally, yes.

18 Q. You indicated in your testimony --  
19 on page 17, you indicate that an ILEC generally  
20 has connections to multiple carriers, is that  
21 correct?

22 A. Yes, that's in my testimony.

1           Q.       And starting on lines 375 you  
2       indicate that it's your understanding of the  
3       Telecom Act of '96 that the incumbent is required  
4       to provide inputs, and that's your word, not  
5       easily duplicated by entrants, did you say that?

6           A.       That's in my testimony, yes.

7           Q.       And would you consider that these  
8       inputs are the connections to multiple carriers?  
9       Let me help you. You say "The expense needed to  
10      recreate an ILEC's connections to multiple  
11      carriers makes entry risky which discourages  
12      entry," do you see that on lines 377?

13          A.       Yes. I think the answer is yes to  
14      your question. I think that inputs is in the  
15      general sense referring to connections -- the  
16      ability to connect to multiple carriers.

17          Q.       Is it your opinion that a  
18      competitive carrier should not be required to  
19      establish its own connections with multiple  
20      carriers in a market, but should be able to use  
21      those connections that are already established by  
22      the incumbent LEC?

1                   MR. ANDERSON: I apologize. I know  
2   this is staff's witness and normally I would not  
3   be objecting -- you know, making an objection that  
4   staff would be willing or entitled to make. I  
5   will object, though, and I'm entitled to object on  
6   the grounds that this is improper, friendly  
7   cross-examination in -- you know, that's the  
8   colloquial term for it. Technically, this is an  
9   attempt to solicit direct testimony in support of  
10   Sprint's position through a staff witness who  
11   shares Sprint's position on this issue.

12                   It is not proper  
13   cross-examination and if that's one of the reasons  
14   why Sprint's time estimates for the staff  
15   witnesses are what they are I think -- I mean,  
16   that may be one reason, but I believe this is  
17   improper cross-examination.

18                   MR. LANNON: Your Honor, I'd just  
19   like to note for the record staff has made no  
20   objection.

21                   MR. PFAFF: I would just say I think  
22   I'm entitled to an explanation of his testimony.

1 JUDGE HAYNES: Overruled.

2 MR. PFAFF: Thank you.

3 JUDGE HAYNES: Overruled. I don't  
4 know if my mic was off. Overruled.

5 MR. PFAFF: The objection was  
6 overruled?

7 JUDGE HAYNES: Yes.

8 MR. PFAFF: Thank you. So could you  
9 read the question back, please?

10 BY MR. PFAFF:

11 Q. Dr. Rearden, I'm going to attempt to  
12 restate my question and that is in your view under  
13 the Telecom Act a competitive carrier is not  
14 required to establish its own connections to the  
15 other carriers in its market, but is permitted to  
16 rely on the connections that are already in place  
17 with the incumbent LEC, is that correct?

18 A. I think that's generally true.

19 Q. Thank you. Do you understand that  
20 to be what is known as indirect interconnection?

21 A. I think that's one way that  
22 competitors are allowed to connect -- are allowed

1 to connect to customers.

2 Q. Okay. We have lost the video feed,  
3 but can you still hear me?

4 A. I can still hear you.

5 MR. PFAFF: Should we proceed?

6 JUDGE HAYNES: It's okay with us.

7 MR. LANNON: Dave, were going to go  
8 ahead and proceed unless you have some kind of  
9 objection to that with just the audio.

10 THE WITNESS: I think we can manage.

11 MR. PFAFF: Okay.

12 BY MR. PFAFF:

13 Q. And you indicated in your response,  
14 though, that you felt that that was one way that  
15 the Telecom Act allowed a carrier to interconnect  
16 with customers and my question was a little bit  
17 different and that is that it's a way for a  
18 carrier to interconnect with other carriers, do  
19 you agree with that?

20 A. Well, it's not that I disagree. I  
21 think what the Telecom Act -- my interpretation of  
22 the Telecom Act is that it was trying to make sure

1     that entrants or other CLEC's could interconnect  
2     with customers in an efficient way.

3             Q.        Okay. And could interconnect with  
4     customers regardless of the carrier of that  
5     customer, is that correct?

6                     MR. ANDERSON: I'm going to make  
7     this continuing objection. It's not appropriate  
8     for a witness or a lawyer for a party whose  
9     position is in line with the position of the  
10    witness being cross-examined to ask questions  
11    designed to elicit additional testimony in support  
12    of the mutual position. That is not the purpose  
13    of cross-examination. It is the attempt to elicit  
14    additional direct testimony in support of that  
15    parties' position.

16                    MR. PFAFF: And, again, my response  
17    is this process, this case, involves a lot of  
18    complicated information and I think I'm entitled  
19    to understand what the witness means or doesn't  
20    mean.

21                    MR. LANNON: Again, just for the  
22    record, staff has no objection.

1 MR. ANDERSON: My point exactly.

2 JUDGE HAYNES: In the interest of a  
3 full record, we are going to overrule the  
4 objection. I will note that I've been told that  
5 the video feed is not likely to come back on any  
6 time soon. So I think Sprint at one point  
7 indicated that they really wanted the video feed.  
8 So we're okay with going ahead on all of his cross  
9 on just telephone? So if -- do people care?

10 MR. PFAFF: Sprint's okay to proceed  
11 in this manner.

12 MR. LANNON: So is staff.

13 JUDGE HAYNES: The objection is  
14 overruled.

15 BY MR. PFAFF:

16 Q. Dr. Rearden, do you remember the  
17 question?

18 A. No.

19 Q. My question was in your view the  
20 purpose of the Act is to allow a customer of a  
21 competitive carrier to communicate with customers  
22 of other carriers, not only the ILEC, but other



1 competitive carriers in that market, is that  
2 correct?

3 A. Let me see if I can clarify. What I  
4 think the Act is intended to do is to make it  
5 efficient for a CLEC to come into a market, serve  
6 their customers efficiently without burdening the  
7 incumbent so the rates are set at a level that is  
8 fair for both sides and that what  
9 telecommunications is is the ability to connect  
10 with other customers and as part of that the  
11 connections that the CLEC has to ensure that it is  
12 able to get -- include interconnecting with other  
13 carriers whose customers the CLEC's customers want  
14 to communicate with.

15 Q. And they should be able to obtain  
16 that interconnection through the ILEC, is that  
17 correct?

18 A. That's my understanding.

19 Q. Thank you. You indicated that on  
20 your testimony on page 18 and this is line 391 and  
21 392 you recommend that AT&T should be required to  
22 provide the transit service at TELRIC rates, is

1     that what you said?

2             A.       That the public interest is served  
3     by that.

4             Q.       Okay.  And in order to get to the  
5     TELRIC rates, should the Commission find that  
6     transit service is a 251 obligation?

7                     MR. ANDERSON:  Same objection.

8                     MR. LANNON:  Your Honor, I want  
9     to -- I don't have an objection here, but I just  
10    want to note for the record that Dr. Rearden is  
11    not a lawyer, but he is free to give his lay  
12    opinion, but that opinion does not necessarily  
13    bind us in briefs.

14                    MR. PFAFF:  Fair enough.  I'm just  
15    asking for his lay opinion as the witness who was  
16    put forth by the Commission on this issue.

17                    JUDGE HAYNES:  I don't know if there  
18    is -- staff didn't have an objection.

19                    MR. LANNON:  No.  As long as it's  
20    understood that it's a lay opinion.

21                    MR. ANDERSON:  But I did.

22                    JUDGE HAYNES:  But yours was the

1 same one, right?

2 MR. ANDERSON: Correct.

3 JUDGE HAYNES: Overruled.

4 MR. PFAFF: Thank you.

5 BY MR. PFAFF:

6 Q. Now, again, do you remember the  
7 question, Dr. Rearden?

8 A. I think so, but you better make sure  
9 I remember it right.

10 Q. In order to get to the TELRIC rates,  
11 is it your lay opinion that the Commission should  
12 find that transit service is a 251 obligation?

13 A. Again, I'm not a lawyer. I don't  
14 know whether the Commission can order. I know  
15 that -- I understand that the Commission does not  
16 have to order that this is a 251(c)(2) service.  
17 My testimony is that I think that the public  
18 interest is served if those rates get closer to  
19 TELRIC. I'm not sure -- well, I'll leave it at  
20 that.

21 Q. Is it your opinion -- it is your  
22 testimony that you're not expressing an opinion

1     either way as to whether the Commission should  
2     decide whether transit is a 251 obligation?

3                     MR. LANNON:   Asked and answered.

4                     JUDGE HAYNES:   Overruled.

5     BY THE WITNESS:

6             A.       It's my opinion that if the  
7     Commission does decide that it is a 251(c)(2)  
8     service that those rates should go to TELRIC.  I  
9     don't know whether the law permits the Commission  
10    to do that.

11    BY MR. PFAFF:

12             Q.       All right.

13                     JUDGE HAYNES:   I think he's made it  
14    clear he is not going to offer a legal opinion.

15                     MR. PFAFF:   Okay.  We'll move on.

16                     MR. ANDERSON:   That's why I stopped  
17    objecting.

18                     MR. LANNON:   I'm always interested  
19    to hear your thought process.

20    BY MR. PFAFF:

21             Q.       I'm going to discuss issue 41 with  
22    you and that is starting on page 26 of your

1 testimony, do you see that?

2 A. Yes.

3 Q. And, of course, this is where I  
4 really do wish we had a video feed because I want  
5 to walk through this call path with you. So it's  
6 very important that if you don't understand,  
7 please stop me. Do you understand that?

8 A. Yes.

9 Q. Okay. So, first of all, do you  
10 understand that this is a mobile-to-land call --  
11 I'm sorry. I've already messed up. Do you  
12 understand that this is a land-to-mobile call?

13 A. That's my understanding, yes.

14 Q. And an AT&T ILEC end user is calling  
15 a Sprint PCS end user, is that correct?

16 A. That is correct.

17 Q. And you understand that wireless  
18 numbers are associated with certain wireless  
19 switches?

20 A. Yes.

21 Q. So, for example, if I lived in  
22 Chicago and I was a Sprint PCS customer I would

1     likely have a Chicago telephone number and one  
2     that was assigned to a Chicago wireless switch, do  
3     you understand that?

4             A.       I think so, yes.

5             Q.       And if an AT&T customer were calling  
6     that Sprint PCS wireless number, the AT&T ILEC  
7     would deliver it to the local Chicago's wireless  
8     switch, do you understand that?

9             A.       I'll take your word for it. I can't  
10    independently verify that.

11            Q.       Well, you did provide testimony with  
12    respect to what you believed to be the  
13    compensation associated with that call, is that  
14    correct?

15            A.       That's correct.

16            Q.       Okay. And I just want to make sure  
17    that we're on the same page as to the -- what that  
18    call looks like and how it is -- how it goes from  
19    one party to the other, do you understand that?

20            A.       Yes, I do.

21            Q.       Okay. And if a competitive carrier  
22    were calling that same telephone number, they

1       would also deliver that call to the local Chicago  
2       wireless switch, would you agree with that?

3             A.       If you say so.

4             Q.       Okay.  Thanks.  So in a normal type  
5       of call if somebody at the Commission, I'm going  
6       to assume the Commission has AT&T service, I don't  
7       know, maybe that's incorrect, but assuming that  
8       they're an AT&T ILEC customer and they call a  
9       Sprint PCS Chicago, that is -- and the Chicago  
10      Sprint PCS customer is in Chicago, you would  
11      consider that to be an Intra-MTA call, is that  
12      correct?

13            A.       It's my understanding that Sprint  
14      and Chicago are in the same MTA.

15            Q.       And is it your understanding that  
16      the ILEC then would deliver that call over the  
17      local facilities to the local Chicago switch, is  
18      that correct?

19            A.       They'd have to get it to the local  
20      switch, I guess.

21            Q.       And, generally speaking, the Chicago  
22      AT&T customer is only dialing seven digits, is

1     that right?

2             A.       That's my understanding.

3             Q.       And because the call is dialed seven  
4     digits, it's a service that AT&T normally provides  
5     to its customers as part of its local exchange  
6     service, is that right?

7             A.       Yes.

8             Q.       And similarly if there is a  
9     telephone number with the same NPA-NXX as the  
10    Sprint PCS customer and the AT&T customer called  
11    the CLEC customer, that would also be part of  
12    AT&T's telephone exchange service, is that right?

13                   MR. ANDERSON:  Your Honor, I'm going  
14    to object.  I've let it go so far, but issue 41  
15    like issue 43 on which Mr. Pfaff was examining  
16    Dr. Rearden a few moments ago is an issue in which  
17    staff's position as expressed in Dr. Rearden's  
18    testimony is aligned with Sprint's.  I have the  
19    same objection to this as I did previously that it  
20    is improper direct testimony and, furthermore,  
21    that in eliciting what is essentially further  
22    direct testimony it is not appropriate to ask



1 leading questions.

2 It's just one more parameter of  
3 why this is so improper. You're asking leading  
4 questions to establish or elicit additional direct  
5 testimony designed to support the position held by  
6 both parties.

7 MR. PFAFF: And, again, Mr. Rearden  
8 is not my witness. I'm entitled to ask leading  
9 questions under that respect and I'm not asking  
10 him questions to bolster his testimony. I'm  
11 asking him questions to understand the basis for  
12 his opinion.

13 MR. ANDERSON: And just one more  
14 response. I believe it's customary that you can  
15 only ask leading questions of an adverse witness.  
16 Now, where the witness is not adverse, I don't  
17 care whether it's the witness formally put on by  
18 the other party or not, it's improper to use  
19 direct or leading questions in examining that  
20 witness.

21 JUDGE HAYNES: Staff?

22 MR. LANNON: I'm hungry, your Honor.

1 No, I've got nothing to say other than staff has  
2 not made an objection.

3 JUDGE HAYNES: Overruled.

4 MR. PFAFF: Thank you.

5 BY MR. PFAFF:

6 Q. I believe the question was when an  
7 AT&T end user calls a CLEC end user that has the  
8 same telephone number as the Sprint PCS end user I  
9 talked about earlier, I keep saying NPA-NXX, a  
10 Chicago telephone number, that would be a service  
11 that would be provided as part of AT&T's telephone  
12 exchange service, would you agree?

13 A. I guess.

14 Q. And we've established that the AT&T  
15 customer has dialed this call of seven digits and  
16 would you agree that the AT&T customer does not  
17 likely pay any long distance charge associated  
18 with that call?

19 A. I don't know. I can speculate.

20 Q. Well, is it your understanding?

21 A. It seems unlikely.

22 Q. Do you understand that a seven digit

1     dialed call would ever incur long distance  
2     charges?

3             A.       I don't think so.

4             Q.       Okay.

5             A.       But I'm not sure.

6             Q.       And you understand, again, that this  
7     is a call delivered over local Interconnection  
8     Facilities, is that correct?

9             A.       That's your example. So yes.

10            Q.       Okay. And do you understand that  
11   this call is not handed off to an IXC?

12            A.       That seems unlikely.

13            Q.       Well, is it your understanding that  
14   the call is not handed off to an IXC?

15            A.       In your example, I don't think so.

16            Q.       Thank you. Now, I'd like to discuss  
17   the exact same example where the Sprint PCS  
18   customer has a Chicago telephone number, but this  
19   time the Sprint PCS customer happens to be in  
20   Lawrence, Kansas. Can you imagine that call?

21            A.       Sure.

22            Q.       And, again, because it's a Chicago

1     telephone number, this is a telephone call made by  
2     an AT&T end user to a Sprint PCS end user with a  
3     Chicago telephone number, correct?

4             A.        Okay.

5             Q.        And wouldn't you agree that AT&T is  
6     going to hand that call off in the same manner as  
7     the previous calls that we discussed?

8             A.        I think so.

9             Q.        It is going to hand that call off  
10    over the local exchange facilities, correct?

11            A.        I believe it will transmit the call  
12    to Sprint's facilities where it thinks the call  
13    should go.

14            Q.        Thank you. And AT&T will be  
15    providing this service to its customer as part of  
16    the telephone exchange service that it provides  
17    its end user, is that correct?

18            A.        Yes, in your example. Yes, AT&T is  
19    providing that service to its customer.

20            Q.        And as we discussed before, it's not  
21    very likely that AT&T's customers paid a long  
22    distance charge in that example, is that correct?

1           A.       Yes, that's what it seems like.

2       That's what it looks like.

3           Q.       Okay. Mr. Rearden, do you happen to  
4       have a wireless telephone?

5           A.       Yes.

6           Q.       And I will shy away from asking who  
7       your carrier is, but I do have several questions  
8       about your phone plan. Do you understand that?

9           A.       Yes.

10          Q.       Does your plan provide you with a  
11       bucket of minutes or do you have unlimited  
12       minutes?

13                   MR. LANNON: Your Honor, at this  
14       point, I'm going to object on relevance and beyond  
15       the scope.

16                   MR. PFAFF: Your Honor, there is  
17       significant issues arising about the competition  
18       for certain types of calls and it's clear from  
19       Sprint's position that we believe that the basis  
20       for the compensation has to do with the charges  
21       that the end user pays. I would like to explore  
22       with this witness, anyway, the charges that he

1     pays.

2                     JUDGE HAYNES:   Sustained.

3     BY MR. PFAFF:

4             Q.       Mr. Rearden, I'm going to move to  
5     issue 36.

6             A.       Okay.

7             Q.       That starts on page 19 of your  
8     testimony.

9             A.       Okay.

10            Q.       I'm sorry.  I'm going to move to  
11     issue 39.  That's on page 23 of your testimony.

12            A.       Okay.

13            Q.       Now, I want to be clear again on the  
14     nature of this call that we're talking about in  
15     issue 39 and that is this is a call in the  
16     opposite direction where the Sprint PCS caller is  
17     calling an AT&T wireline end user, do you  
18     understand that?

19            A.       Yes.

20            Q.       And so in this circumstance, it's  
21     where a Sprint PCS end user in one MTA calls an  
22     AT&T end user located in another MTA, do you

1 understand that?

2 A. I'm sorry. I lost my thought for a  
3 second. Can you repeat that?

4 Q. Sure. This is a circumstance where  
5 a Sprint PCS end user in one MTA say, for example,  
6 the Kansas City MTA calls an AT&T end user in the  
7 Chicago MTA, do you understand that?

8 A. So it's crossing an MTA boundary?

9 Q. That's correct.

10 A. Okay.

11 Q. And your testimony deals with  
12 compensation for that call, is that correct?

13 A. Yes.

14 Q. And in your view it is immaterial  
15 whether the Sprint end user pays a long distance  
16 charge or a toll charge for that call, is that  
17 correct?

18 A. Yes.

19 Q. In your opinion, the only important  
20 distinction is the geography of the call, is that  
21 right?

22 A. Yes.

1           Q.       And, therefore, you don't see the  
2       need to distinguish between different types of  
3       Inter-MTA traffic, is that correct?

4           A.       From the cell customer -- from the  
5       mobile customer to the landline, that's correct.  
6       Yes.

7           Q.       Okay. And because in your view -- I  
8       want to try to find this in your testimony. You  
9       believe that the FCC has already ruled that  
10      Inter-MTA traffic is subject to access, is that  
11      correct?

12          A.       Yes.

13          Q.       Okay. Now, I think this might be  
14      where you've changed your testimony and I want to  
15      be careful here. On page 21 of your testimony,  
16      you had initially cited to paragraph 798, is that  
17      correct?

18          A.       Yes.

19          Q.       And you say starting on line 467  
20      that "Sprint's formulation with respect to  
21      Inter-MTA traffic departs from the current FCC  
22      practice and it contradicts the plain language and



1 intent of the CAF order," is that your testimony?

2 A. Yes.

3 Q. And originally you had cited to  
4 paragraph 798 of the CAF order, C-A-F, for that  
5 proposition?

6 A. Yes.

7 Q. And now you have changed -- you've  
8 amended your testimony and you're citing to  
9 paragraphs 1003 through 1008, did I get that  
10 correct?

11 A. Yes.

12 Q. And do you happen to have the CAF  
13 order in front of you?

14 A. Yes.

15 Q. Could you turn to paragraph 1003?

16 A. Sure. Okay. I'm there.

17 Q. And hold that in front of you, but I  
18 would also like you to turn to page 26 of the  
19 testimony. Starting on line 583. You say there  
20 that "The FCC made it quite clear that Inter-MTA  
21 traffic was to be viewed as access traffic for  
22 purposes of intercarrier compensation," is that

1 your testimony?

2 A. Yes.

3 Q. And you do not include a citation,  
4 though, to that sentence, is that right?

5 A. That's correct.

6 Q. And going back then to page 21.  
7 Your citation now is to the CAF order starting on  
8 paragraph 1003, do I understand that correctly?

9 A. Yes.

10 Q. Okay. And right above paragraph  
11 1003, do you see the section heading for that?

12 A. Yes.

13 Q. Could you read what that says,  
14 please?

15 A. Intra-MTA rule.

16 Q. And we need to be really clear here  
17 with the court reporter. That's Intra-MTA,  
18 correct?

19 A. Yes, I-N-T-R-A, M-T-A.

20 Q. Thank you. And you would agree with  
21 me that in the paragraphs that you refer to 1003  
22 to 1008 the word Intra-MTA is included numerous

1 times, correct?

2 A. Yes.

3 Q. And, again, just to be clear we're  
4 talking about the word Intra-MTA, right?

5 A. Yes.

6 Q. Can you find me anywhere in those  
7 paragraphs where the FCC uses the word Inter-MTA?  
8 And that is I-N-T-E-R MTA. And I'm certainly  
9 willing to take time and I apologize. I would  
10 have looked over this a little more carefully had  
11 I known you were going to refer to this in your  
12 testimony.

13 A. No, I don't see that.

14 Q. So just to be clear. You do not see  
15 the word Inter-MTA included anywhere in those  
16 paragraphs, correct?

17 A. No.

18 Q. And despite that you indicate that  
19 the plain language of the CAF order indicates that  
20 Inter-MTA traffic is subject to access charges, is  
21 that your testimony?

22 A. Yes.

1           Q.       Well, I would like you then to point  
2       to me within those paragraphs where the plain  
3       language of the CAF order says that Inter-MTA is  
4       subject to access charges. Dr. Rearden, are you  
5       still there?

6           A.       Yes. The intent -- to me, the  
7       intent of the CAF order is there is a reform of  
8       access charges and that the --

9           Q.       Unless you want to continue  
10      searching, I think --

11                   JUDGE HAYNES: We don't want it to  
12      continue.

13                   MR. PFAFF: I think there's some  
14      other people who --

15      BY MR. PFAFF:

16           Q.       Would you at least agree that there  
17      is no clear specific sentence in the paragraphs  
18      that you reference that says Inter-MTA traffic is  
19      subject to access charges?

20           A.       Not that I see, no.

21           Q.       Thank you. I hope that you have  
22      Sprint Exhibit 7 in front of you. I think we

1       asked that you be -- that that be shared with you?

2                       JUDGE HAYNES:   Is this Cross Exhibit  
3       7?

4                       MR. PFAFF:   Yes, please.

5       BY THE WITNESS:

6               A.       Can you describe it, please?

7       BY MR. PFAFF:

8               Q.       Do you have that?

9               A.       We want to make sure we get the  
10      right document.

11              Q.       This is just an excerpt from Title  
12      47.  It says Telegraphs, Telephones and Radio  
13      Telegraphs, Chapter 5, Wire and Radio  
14      Communications.

15              A.       251 or 153?

16              Q.       Yes, it is.

17              A.       Both of them?

18              Q.       I'm sorry.  I did not hear that.

19              A.       251 or 153?

20              Q.       153.

21              A.       It's Title 47?

22              Q.       That's correct.

1           A.       Yes.

2           Q.       Don't get rid of the CAF order.

3       We'll be coming back to that. I would like you to  
4       look though in Sprint Exhibit 7 and I want to turn  
5       your attention to definition 55 and, you know,  
6       this is just to help you see what the rule says  
7       out of the statute. Are you familiar with these  
8       definitions?

9           A.       Not in any detailed way, no. I  
10       mean, I know a lot of these definitions, but I  
11       haven't looked at Title 47 very often.

12          Q.       Okay. But presumably you'd be  
13       relying upon the FCC's statutes and rules in  
14       making the determinations with respect to  
15       compensation, is that correct?

16          A.       Well, I think I'm relying more on  
17       the record in this case.

18          Q.       You don't believe that the FCC  
19       statutes and rules should play a role in the  
20       determination of the compensation that should be  
21       paid for telecommunications traffic?

22                   MR. LANNON: Objection. Asked and

1 answered. It's starting to get a little  
2 argumentative.

3 MR. PFAFF: Again, I think this goes  
4 to the witness' ability to testify as to the  
5 matters he's testified about.

6 JUDGE HAYNES: He's stated what his  
7 opinion is based on.

8 MR. PFAFF: Okay.

9 BY MR. PFAFF:

10 Q. Let me ask you this. Is it your  
11 testimony that you did not rely upon the  
12 definitions in Section 153 of the Act?

13 A. Well, I read the testimony from  
14 Sprint witnesses discussing those definitions.

15 Q. So did you review those definitions  
16 yourself?

17 A. No.

18 Q. Would you read aloud the definition  
19 for telephone toll service?

20 MR. LANNON: Your Honor, I'm going  
21 to object. The definition of telephone toll  
22 service in 47 U.S.C. 153.55 speaks for itself.

1 The witness has already explained what he relied  
2 on.

3 MR. PFAFF: I understand, but he has  
4 now testified that he is aware that our witness  
5 has cited to these rules and regulations and now  
6 he claims that he didn't look at them. So I think  
7 I'm entitled to find out what he thinks they mean.

8 MR. LANNON: He said he hasn't  
9 looked at them. He can read it in, but so could,  
10 you know, anyone.

11 JUDGE HAYNES: The actual question  
12 pending is can he read it in. I don't think he  
13 needs to read it in. We can all see it. So what  
14 is your next question?

15 MR. PFAFF: I will move on.

16 BY MR. PFAFF:

17 Q. You have that definition in front of  
18 you, is that correct?

19 A. Yes, sir.

20 Q. Would you agree that what that  
21 definition says is that for a telephone toll  
22 service call there has to be made a separate



1 charge not including the contracts with the  
2 subscribers for exchange service, would you agree  
3 that's what that definition says?

4 A. That's what it says.

5 Q. But you didn't rely upon that  
6 definition in reaching your conclusion about the  
7 applicability of access charges, is that your  
8 testimony?

9 MR. LANNON: Asked and answered,  
10 your Honor.

11 JUDGE HAYNES: Sustained.

12 BY MR. PFAFF:

13 Q. You would agree with me going back  
14 to your testimony earlier about the wireline call  
15 where the AT&T end user calls the Sprint PCS end  
16 user and they dial seven digits that the customer  
17 did not pay a long distance charge, was that your  
18 testimony?

19 A. I believe that's what we discussed,  
20 yes.

21 Q. Could you turn to -- let me ask this  
22 question. Have you reviewed the CAF order?

1           A.       Yes. I mean, I don't think I read  
2 every word.

3           Q.       I don't think anybody has.

4                   MR. ANDERSON: May I note for the  
5 record that it has been perhaps a little over 45  
6 minutes since this cross-examination began.

7                   MR. PFAFF: I'll note for the record  
8 that my questions would have gone much quicker  
9 without numerous objections from AT&T.

10                  JUDGE HAYNES: Let's see if we can  
11 wrap it up soon.

12                  MR. PFAFF: Okay. Thank you.

13 BY MR. PFAFF:

14           Q.       Are you aware that the CAF order has  
15 now stated that all traffic is 251(b)(5) traffic?

16           A.       I believe I've heard that.

17           Q.       Well, let's be a little bit more  
18 clear then. You do have the CAF order in front of  
19 you, is that correct?

20           A.       Yes, sir.

21           Q.       Could you turn to paragraph 764?

22           A.       Okay.

1           Q.       Do you see in the second full  
2 sentence in the CAF order it says that --

3                   MR. LANNON:   Could you hold on a  
4 second?

5                   MR. PFAFF:   I'm sorry.   It's  
6 paragraph 764.

7                   MR. LANNON:   I'm getting there.   Go  
8 ahead.

9   BY MR. PFAFF:

10           Q.       Do you see the second full sentence  
11 that starts with "consistent with our approach,"  
12 do you see that sentence?

13           A.       Yes.

14           Q.       It goes onto say "We find it  
15 appropriate to bring all traffic within the  
16 Section 251(b)(5) regime at this time," do you see  
17 that phrase?

18           A.       Yes.

19           Q.       Wouldn't you agree with me that the  
20 FCC has now indicated that all traffic is  
21 251(b)(5)?

22                   MR. LANNON:   I'm going to object.

1 The language speaks for itself. I don't know what  
2 good -- he has read it in.

3 JUDGE HAYNES: He has read it in and  
4 you're asking for a legal conclusion.

5 MR. PFAFF: Again, I'm just asking  
6 for his understanding of what the CAF order says.

7 JUDGE HAYNES: Why can't we do this  
8 in briefs?

9 MR. PFAFF: We certainly can, but  
10 the witness is the one who has provided testimony  
11 as to the appropriate compensation and treatment  
12 of traffic. I think I'm entitled to understand  
13 what he bases his conclusions on.

14 JUDGE HAYNES: So the specific  
15 question did he read it and does it say what it  
16 says I think he answered and if you're asking for  
17 him to give a legal conclusion I'm going to  
18 sustain any objections having to do with that.

19 MR. PFAFF: Okay. I don't have any  
20 anything further.

21 JUDGE HAYNES: Okay.

22 MR. ANDERSON: We may have some

1 short cross, but I want to confer.

2 JUDGE HAYNES: Okay.

3 MR. PFAFF: Thank you, Dr. Rearden.

4 THE WITNESS: Thank you.

5 MR. ANDERSON: I have some

6 cross-examination.

7 MR. SCHIFMAN: Your mic isn't on.

8 JUDGE HAYNES: How much cross

9 because this is new?

10 MR. ANDERSON: Very little. Maybe

11 five minutes.

12 JUDGE HAYNES: Okay.

13 C R O S S E X A M I N A T I O N

14 BY MR. ANDERSON

15 Q. Dr. Rearden --

16 JUDGE HAYNES: Are you there,

17 Dr. Rearden?

18 THE WITNESS: I'm here.

19 JUDGE HAYNES: Okay.

20 BY MR. ANDERSON:

21 Q. Dr. Rearden, in an example

22 Mr. Pfaff gave you, I may have gotten the example

1 wrong, but there was an example of a landline call  
2 or a call made on a landline phone to a Sprint end  
3 user in the Chicago area, did I understand that to  
4 be an example that was given?

5 A. That was one example, sure.

6 Q. And I also heard of some reference  
7 to dialing seven digits. Did you hear that,  
8 Dr. Rearden?

9 A. Yes.

10 Q. Dr. Rearden, do you know whether or  
11 not in the Greater Chicago area landline customers  
12 are able to make local calls dialing only seven  
13 digits?

14 A. No, I don't know. I don't live in  
15 the Chicago area.

16 Q. So you're not familiar with the  
17 concept of area code overlays and the restrictions  
18 that require 11 digit dialing for all local calls  
19 within the area covered by an overlay?

20 A. I used to live in an area that had  
21 that, but it's been a while so I don't know.

22 Q. So it's fair to say you don't know

1     whether or not, in fact, a wireline customer would  
2     be able to make a local call or an Intra-MTA call  
3     to a Sprint end user by dialing just seven digits  
4     in the Chicago area, is that correct?

5             A.        I don't know.

6             Q.        I don't know the answer to this.  
7     What is the situation in Springfield? Can you  
8     still dial seven digits in Springfield?

9             A.        We only have the 217, I think.

10            Q.        Okay. Now, in the testimony where  
11    you changed your citation and I believe that was  
12    page 21, line 470, and you cited paragraphs --  
13    you're now citing paragraphs 1003 through 1008?

14            A.        Yes.

15            Q.        If you have the Connect America Fund  
16    Order in front of you still, could you turn to  
17    paragraph 995?

18            A.        Okay.

19            Q.        Now, can you take a second to look  
20    at this paragraph and the section that is included  
21    in -- this is a section in which the FCC addressed  
22    the compensation arrangements between wireline and

1       wireless carriers for Intra-MTA calls, correct?

2                       JUDGE HAYNES:   Dr. Rearden, have you  
3       read this paragraph before?

4                       THE WITNESS:   I think I have.

5                       MR. LANNON:    Excuse me.   What  
6       paragraph are we talking about?

7                       MR. ANDERSON:   995.

8                       MR. LANNON:    Thank you.

9       BY THE WITNESS:

10               A.       Do you want me to read it?

11       BY MR. ANDERSON:

12               Q.       No, I'm just asking you if this  
13       paragraph and the section that's in addresses --  
14       let me ask it this way.

15                       Would you agree that this  
16       paragraph addresses the Commissions or the FCC's  
17       decision to require bill-and-keep arrangements for  
18       Intra-MTA traffic between LEC's and CMRS  
19       providers?

20               A.       Yes, for traffic to or from a CMRS  
21       provider.

22               Q.       Right.   Now, would you look at the



1 second sentence of paragraph 995, which reads  
2 "Although we have adopted a glide path to a  
3 bill-and-keep methodology for access charges  
4 generally and for reciprocal compensation between  
5 two wireline carriers, we find that a different  
6 approach is warranted for nonaccess traffic  
7 between LEC's and CMRS providers for several  
8 reasons," do you see that?

9 A. Yes.

10 Q. Now, would you agree that there are  
11 two types of traffic governed by this order,  
12 access and nonaccess, correct?

13 A. Yes.

14 Q. Now, does that sentence suggest to  
15 you that the FCC made a distinction between  
16 reciprocal compensation between two wireline  
17 carriers and reciprocal compensation for nonaccess  
18 between LEC's and CMRS providers?

19 MR. PFAFF: I'd like to object to  
20 this, your Honor. I think he is trying to elicit  
21 testimony that he accused me of doing.

22 JUDGE HAYNES: Perhaps legal

1 conclusion?

2 MR. PFAFF: Yes. Thank you.

3 JUDGE HAYNES: Sustained.

4 MR. ANDERSON: I have no further  
5 questions.

6 JUDGE HAYNES: Okay. Does staff  
7 have redirect?

8 MR. LANNON: Could we have like one  
9 minute?

10 JUDGE HAYNES: One.

11 MR. LANNON: No redirect, your  
12 Honor.

13 JUDGE HAYNES: Great.

14 (Whereupon, a break was taken  
15 after which the following  
16 proceedings were had.)

17 JUDGE HAYNES: Would you like to  
18 call your next witness, staff?

19 MS. SWAN: Staff calls its next  
20 witness Dr. James Zolnierrek.

21 JUDGE HAYNES: Good afternoon,  
22 Dr. Zolnierrek.

1 WHEREUPON:

2 JAMES ZOLNIEREK

3 called as a witness herein, having been first duly  
4 sworn, deposeth and saith as follows:

5 JUDGE HAYNES: Thank you.

6 D I R E C T E X A M I N A T I O N

7 BY MS. SWAN

8 Q. Can you please state your full name  
9 for the record and spell your last name.

10 A. James Zolnierenk, Z-O-L-N-I-E-R-E-K.

11 Q. Who is your employer and what is  
12 your business address?

13 A. I'm employed by the Illinois  
14 Commerce Commission. My business address is 527  
15 East Capitol Avenue, Springfield, Illinois 62701.

16 Q. We're just going to wait for the  
17 sirens. And what is your position at the Illinois  
18 Commerce Commission?

19 A. I am the director of the policy  
20 division.

21 Q. And did you prepare written exhibits  
22 for submittal for this proceeding?

1           A.       I did.

2           Q.       Do you have before you a document  
3       which has been marked for identification as ICC  
4       Staff Exhibit 1.0, which consists of a cover page,  
5       a table of contents, 62 pages of narrative  
6       testimony, Attachment's 1.1, 1.2 and 1.3 and is  
7       entitled Direct Testimony of Dr. James Zolniererek?

8                       (Document marked as Staff  
9                       Exhibit No. 1.0 for  
10                      identification.)

11       BY THE WITNESS:

12           A.       Yes. Can you check the page  
13       numbers? I have actually 64.

14       BY MS. SWAN:

15           Q.       I am sorry. You are correct. So  
16       I'll amend that. So do you have before you ICC  
17       Staff Exhibit 1.0, which consists of a cover page,  
18       table of contents, 64 pages of narrative  
19       testimony, Attachment's 1.1, 1.2 and 1.3 and is  
20       entitled Direct Testimony of James Zolniererek?

21           A.       Yes, I do.

22           Q.       Did you prepare that document for

1 presentation in this matter?

2 A. Yes, I did.

3 Q. Do you have any corrections to make  
4 to ICC Staff Exhibit 1.0?

5 A. Not at this time.

6 Q. Is the information contained in ICC  
7 Staff Exhibit 1.0 true and correct to the best of  
8 your knowledge?

9 A. Yes.

10 Q. If I were to ask the same questions  
11 as set forth in ICC Staff Exhibit 1.0, would your  
12 responses be the same today?

13 A. Yes.

14 MS. SWAN: Your Honor's, I move for  
15 admission into evidence ICC Staff Exhibit 1.0  
16 including all attachments thereto.

17 JUDGE HAYNES: Is there any  
18 objection?

19 MR. FRIEDMAN: No objection.

20 MR. SCHIFMAN: None from Sprint.

21 JUDGE HAYNES: Was this filed on  
22 January 15th on E-docket?

1 MS. SWAN: Yes, it was.

2 JUDGE HAYNES: Staff Exhibit 1.0,  
3 1.1, 1.2, and 1.3 are admitted into the record.

4 MS. SWAN: Thank you. Dr. Zolnierrek  
5 is now available for cross-examination.

6 C R O S S E X A M I N A T I O N

7 BY MR. SCHIFMAN

8 Q. Hi, Dr. Zolnierrek. Ken Schiffman on  
9 behalf of Sprint.

10 A. Good afternoon.

11 Q. Good afternoon. Dr. Zolnierrek, I'm  
12 going to turn to page six of your testimony and  
13 I'm going to be referencing lines 71 through 80,  
14 please.

15 A. Okay.

16 Q. Is it true there that you  
17 mentioned -- you have a discussion regarding TDM  
18 technology and IP technology in that section of  
19 your testimony?

20 A. Correct.

21 Q. Okay. It says you're not an  
22 engineer, but do you have any kind of general

1 understanding as to what technology now is more  
2 efficient to utilize for carriers?

3 A. You have to define efficiency. It's  
4 a pretty general term. If you're talking about in  
5 terms of being able to perform the same  
6 functionality at least cost, my general  
7 understanding not being an engineer and not having  
8 done specific cost studies is if you were  
9 deploying new that you would likely deploy a  
10 largely IP format network.

11 Q. So it's your understanding that if a  
12 carrier were deploying equipment today that it  
13 would likely deploy IP technology rather than  
14 circuit switch technology?

15 A. Yes. And I qualify that by saying  
16 that's sort of a scorched earth model. I mean, if  
17 you have an existing telecommunications  
18 infrastructure you're going to have to decide  
19 based upon what you have now. If you were to  
20 deploy a completely new system without any  
21 existing structure, then I would think it would be  
22 largely IP to my understanding.

1           Q.       Do you have an understanding,  
2       Dr. Zolnierrek, of AT&T's intent one way or another  
3       to migrate its network from TDM to IP technology?

4           A.       Only what I've seen in the press and  
5       various filings so with the FCC.

6           Q.       So did you review Mr. Burt's  
7       testimony Exhibit 1.5 that had AT&T's petition to  
8       launch a proceeding concerning the TDM to IP  
9       transition?

10          A.       I believe, yes, I've seen that.

11          Q.       Are you aware of the reasons why  
12       AT&T is seeking a trial at the FCC?

13          A.       I'm aware that they are seeking a  
14       trial. I'm not sure I'm aware of every single  
15       reason they have for it. I think they've  
16       expressed it's the way the network is headed and  
17       that it is an efficient technology and they plan  
18       to move there in the future, but I know there --  
19       it's not an unconstrained movement.

20          Q.       Do you have an opinion one way or  
21       the other that if AT&T migrates its technology  
22       from TDM to IP as to what AT&T intends as far as



1     whether or not state commissions have authority  
2     over the IP networks?

3             A.       It's my understanding that AT&T  
4     takes the position that the state commissions have  
5     no authority over those networks.

6             Q.       And as a representative of the state  
7     commission, does that concern you?

8             A.       The commission is a creature of the  
9     legislature.   So we respond what the legislature  
10    dictates in terms of what authority we have and  
11    don't.

12            Q.       Okay.   And right now how does staff  
13    interpret the Commission's authority with respect  
14    to IP-to-IP interconnection?

15            A.       I don't think we have.   I mean, I  
16    think as expressed in my testimony our position is  
17    that -- at least my position in my view from  
18    reading the FCC orders, and I'm not a lawyer, is  
19    that the FCC considers it an open question whether  
20    they or subsequently the state would have any  
21    authority on a 251, 252 sense over IP  
22    interconnection and as an outstanding issue I

1 think I said in my testimony based on what Sprint  
2 has proposed that the Commission need not reach  
3 that ultimate decision at this point.

4 Q. But in your testimony you do state  
5 that the Commission does have authority if Sprint  
6 presents what you consider appropriate terms and  
7 conditions you believe the Commission does have  
8 authority to arbitrate terms and conditions for  
9 IP-to-IP interconnection, right?

10 A. I don't know that for certain. You  
11 know, I think when staff is presenting their  
12 testimony we're dealing with it within the context  
13 of it's going to be reviewed by our attorneys and  
14 we'll discuss legal position in briefs. Like I  
15 said, it's an open discussion at that level. So I  
16 think they've expressed some confusion as to  
17 whether they have the authority. I don't know if  
18 the Commission does have the authority or doesn't  
19 have the authority, but I know that at this point  
20 at least in my opinion the person need not reach  
21 that position because I don't think Sprint has  
22 provided something that if the Commission can make

1 a determination under 251, 252 has enough details  
2 to actually make a decision whether it meets those  
3 requirements.

4 Q. So let me refer you to page 11.

5 A. I'm there.

6 Q. Excuse me. Page ten of your  
7 testimony, the bottom.

8 A. Okay.

9 Q. So does it say "Like Sprint, I  
10 recommend that the Commission direct the parties  
11 to enter into operational discussion to establish  
12 IP interconnection"?

13 A. Yes.

14 Q. And so you believe the Commission  
15 does have the authority to direct the parties to  
16 enter into operational discussions to establish IP  
17 interconnection, right?

18 MS. SWAN: Objection. Calls for a  
19 legal opinion and argumentative.

20 MR. SCHIFMAN: I don't believe it's  
21 argumentative. I'm just trying to -- I believe he  
22 stated now on the record that he has called into

1 question some of the items that he has put into  
2 testimony. So I'm going to get an understanding  
3 of what is in his testimony.

4 JUDGE HAYNES: Overruled.

5 BY MR. SCHIFMAN:

6 Q. Dr. Zolnierrek, you state in your  
7 testimony that you recommend the Commission direct  
8 the parties to enter into operational discussion  
9 to establish IP interconnection, correct?

10 A. Correct.

11 Q. So obviously -- well, maybe not  
12 obviously. Do you believe that the Commission has  
13 authority to direct the parties to enter into  
14 operational discussions regarding IP  
15 interconnection?

16 A. I think the Commission can direct  
17 them to do that. Whether it stands up legally, I  
18 don't know that.

19 Q. Whether it is what? I'm sorry. I  
20 didn't hear that.

21 A. Whether it would stand up to legal  
22 challenge, I don't know at this time.

1           Q.       Okay. Dr. Zolnierrek, are you  
2 familiar with Illinois Administrative Code Rule  
3 790.310?

4           A.       I am generally familiar with those  
5 rules. I don't have them memorized.

6           Q.       Okay. And, of course, I wouldn't  
7 expect you to. You were sent before -- you appear  
8 via video conference, a copy of Rule 790.310, does  
9 that appear to be a fair and accurate  
10 representation of the rule?

11          A.       Yes, this is a copy. I have no  
12 reason to believe it's not an accurate copy.

13          Q.       Okay. What is the title of that  
14 rule?

15          A.       Title 83 Public Utilities Chapter 1  
16 Illinois Commerce Commission, Chapter F Telephone  
17 Utilities Part 790 Interconnection, Section  
18 790.310 Interconnection For The Purpose of  
19 Transmitting and Routing of Either Exchange or  
20 Exchange Access Service.

21          Q.       Okay. And so first do you agree  
22 that both exchange services and telephone exchange

1 services are able to ride Interconnection  
2 Facilities?

3 A. I'm sorry. Can you repeat the  
4 question? I'm not sure I --

5 Q. Yes. The title of the rule talks  
6 about for the purpose of transmitting and routing  
7 of either exchange or exchange access service, do  
8 you see that?

9 A. Yes, I do.

10 Q. So do you believe the rules applies  
11 for interconnection to both of those types of  
12 services for the purpose of transmitting either  
13 exchange service or exchange access service?

14 A. Presumably.

15 Q. Okay. Is there anything about --  
16 Subpart A talks about ILEC's having a duty to  
17 provide for the facilities and equipment of any  
18 telecom carrier interconnection with the ILEC's  
19 network, do you see that?

20 A. Yes.

21 Q. And A3 it discusses at least equal  
22 in quality to that provided by the ILEC to itself

1 or to any subsidiary affiliate or any party to  
2 which the ILEC provides interconnection, right?

3 A. I believe that's what it says.

4 Q. Is there anything in the rules as  
5 far as you know as to whether or not  
6 interconnection as it's written in the rule  
7 applies to either TDM technology or IP technology?

8 A. I'm not aware of any specificity  
9 that would distinguish between the two.

10 Q. Okay. I'm sorry. Did you say I am  
11 not aware?

12 A. Right. I am not aware of any place  
13 in the rule where it differentiates between the  
14 two.

15 Q. Okay. As far as you know, is this  
16 rule still effective in Illinois?

17 A. Yes, I note that I think several  
18 places it says that the rules are subject to be in  
19 accordance with the terms and conditions of  
20 requirements of Section 251, 252 of the Federal  
21 Act.

22 Q. Okay. So turn the page and Subpart

1 C talks about points of interconnection. And it  
2 states "Technically feasible points within the  
3 ILEC's network include at a minimum" and then  
4 there's a listing one through five, do you see  
5 that?

6 A. Yes.

7 Q. Is there any -- do you have any  
8 understanding as to whether or not those locations  
9 are or are not available for interconnection based  
10 on the technology that the parties are utilizing  
11 for the exchange of traffic?

12 A. Sorry. I don't follow your  
13 question.

14 Q. Okay. So there's some points of  
15 interconnection that are listed in the rule,  
16 right?

17 A. Generally, right.

18 Q. So it says, for example, the  
19 line-side of a local switch or remote terminal  
20 device or the trunk-side of a local switch or  
21 remote terminal device, those are the first two?

22 A. Yes.



1           Q.       And one of them says the trunk  
2       interconnection points for a tandem switch, right?

3           A.       Correct.

4           Q.       And my question to you is is there  
5       any distinction in the rules as to whether or not  
6       those locations are technically feasible based  
7       upon the technology utilized within the ILEC  
8       network?

9           A.       I don't believe that distinguishes.

10          Q.       Okay. Then go down to E, please.  
11       It says locations of interconnections. Again, it  
12       talks about technically feasible locations of  
13       interconnection include at a minimum, correct, and  
14       it lists various locations within the ILEC  
15       network, is that right?

16          A.       Yes, it lists various pieces of  
17       equipment.

18          Q.       I'm sorry. It looks like what?

19          A.       It lists various pieces of  
20       equipment.

21          Q.       Okay. And one of those might be a  
22       tandem office, right?

1           A.       Yes.

2           Q.       Okay.  So is this part of the rule?

3       I'll ask you the same question.  Is this part of  
4       the rule having a distinction related to  
5       technically feasible locations of interconnection  
6       within an ILEC's network?  Is there any  
7       distinction based on IP technology or TDM  
8       technology?

9           A.       No, I think I actually answered that  
10       generally for the whole subsection.

11          Q.       Okay.  Thanks.  We can put the rule  
12       aside.  That's fine.

13                   Do you have Mr. Albright's  
14       picture which was CCA-9 that we had up on the  
15       poster board yesterday?

16          A.       My apologies.  I do have the  
17       Attachment CCA-9, but I would note my copy is  
18       black and white.

19          Q.       Okay.  No problem.  And so yesterday  
20       you probably didn't hear everything I understand  
21       because the microphones weren't on for the whole  
22       time for you, but did you gain an understanding

1     that Mr. Albright said that the switching for the  
2     AT&T Illinois U-verse service is -- he says is  
3     performed by AT&T Corp?

4             A.       I didn't hear that yesterday. We  
5     didn't hear any of the technical stuff that was  
6     discussed about this diagram because it was off  
7     mic, but I believe he said that in his testimony  
8     also.

9             Q.       Okay. Okay. So, in essence, the  
10    AT&T Corp switch acts as a local switch for the  
11    service that is provided to AT&T Illinois  
12    customers, is that right?

13            A.       Can you repeat the question?

14            Q.       Sure. So I said, in essence, the  
15    AT&T Corp switch is necessary for AT&T Illinois  
16    customers to obtain telephone exchange service, is  
17    that right?

18            A.       I don't believe in any every  
19    assistance. I believe AT&T's got two types of  
20    customers. Generally, two types of customers.  
21    They have IP customers on, for example, their  
22    U-verse network and traditional circuit switch

1 customers that are on their older traditional  
2 network and I think if the customer is a  
3 traditional then it need not go through the AT&T  
4 Corp switch to provide service.

5 Q. Excellent distinction. I didn't  
6 make that in my question. Thank you. So let's  
7 restrict the question then for two AT&T Illinois  
8 U-verse customers. Is the AT&T Corp switch a  
9 necessary element of that telephone exchange  
10 service for those two parties?

11 A. I have very limited knowledge of  
12 this based on the testimony, but I believe so.

13 Q. Okay. So we looked at the rule  
14 earlier and we looked at points of interconnection  
15 and I believe one of the points of interconnection  
16 was a serving wire center in Subpart E?

17 A. Okay.

18 Q. Or a host and remote end office.  
19 Are those local switches to your knowledge? Are  
20 those other names for switches?

21 A. Yes, but I think they connote  
22 different functionalities. I mean, a host is,

1     yes, a local switch and usually when you describe  
2     it as a host it usually has remote switches off of  
3     it, but they're both I would consider local  
4     switches in sort of a general sense. A serving  
5     wire center is more to my mind a switch that  
6     connects, for example, a long distance carrier.  
7     It would connect -- the traffic from a long  
8     distance carrier might be switched to a serving  
9     wire center and then sent on to an end office or a  
10    local office, local switch.

11           Q.     Okay. But do you agree it's  
12    technically feasible generally in the TDM network  
13    for carriers to interconnect at local switches?

14           A.     It's my understanding, yes.

15           Q.     Okay. Let's turn to page ten of  
16    your testimony. We're already there, aren't we.  
17    Line 162 basically and the answer that starts on  
18    line 162.

19           A.     Yes.

20           Q.     You talk about Sprint needing to  
21    provide additional rates, terms and conditions for  
22    IP-to-IP interconnection in your view, is that

1 right?

2 A. Yes.

3 Q. Okay. Now, I'm going to refer you  
4 to Jim Burt's testimony, which is his rebuttal  
5 testimony pages 26 through 27.

6 A. Okay. I'm there.

7 Q. Okay. In your mind, is this the  
8 part of Mr. Burt's testimony where he is  
9 responding to your request regarding Sprint  
10 identifying terms and conditions for IP  
11 interconnection?

12 A. He may have been. I don't believe  
13 he did. He may have been trying to.

14 Q. Okay. Do you agree that a term or  
15 condition of IP interconnection is actually first  
16 obtaining the right to do so under a contract?

17 A. I don't know. It's somewhat of a  
18 chicken and egg problem. How can a commission  
19 grant a right to do something that it doesn't know  
20 exactly what you want to do. I mean, are you  
21 saying connect in a general sense? Well, it's not  
22 clear if it's technically feasible or, you know,

1 if it makes any sense. So for the Commission to  
2 say "Yes" in sort of a global sense, I think it  
3 would help to have the details necessary to make  
4 that determination.

5 Q. Understood. But the first step in  
6 determining whether or not two parties can  
7 interconnect an IP is that there has to be some  
8 contract terms. We don't have to say what they  
9 are yet, but there has to be some contract terms  
10 that say the parties will interconnect in Internet  
11 protocol, right?

12 A. I guess I'm not understanding the  
13 question. If the contract is going to give them a  
14 right to interconnect an IP format, then, yes, the  
15 contract will say they have that right, I guess.

16 Q. Okay. So in the second one, the  
17 second term might be, okay, where are the parties  
18 going to interconnect in an IP, is that one of the  
19 terms that you think is necessary?

20 MS. SWAN: Objection. Speculative.  
21 Dr. Zolnierrek has no basis for knowing how the  
22 parties would negotiate these terms.

1                   MR. SCHIFMAN: I'm just asking him  
2           what he thinks the necessary terms and conditions  
3           are for IP in order for them to be in a contract  
4           that are sufficient for the Commission to order.

5                   JUDGE HAYNES: Overruled.

6           BY MR. SCHIFMAN:

7                   Q.       Dr. Zolnierrek, do you agree with me  
8           that if the parties are permitted to interconnect  
9           an IP and you're saying that the parties need to  
10          provide more detail about where they will or how  
11          that type of interconnection will take place, one  
12          of those details would be the location of the  
13          actual IP interconnection?

14                  A.       I would say a locational element. I  
15          don't think that the details need to be spelled  
16          out in excruciating detail and I don't think they  
17          are in typical interconnection agreements, but at  
18          a basic level, for example, you know, how many  
19          points of interconnection per LATA will -- I don't  
20          understand -- you know, in the FCC rules, it  
21          requires that there -- the ILEC's give  
22          interconnecting carriers the option to connect to



1 a point in the LATA and I think Sprint here  
2 proposed, at least as far as I can tell, a single  
3 points of state and I'm not sure that complies  
4 with either 251, 252 or the Commission rules in  
5 implementing them. So that level of specificity,  
6 I think, at least is required.

7 Q. Okay. So in your view -- okay.  
8 We'll leave it at that. I understand your answer.  
9 What about is there any -- what other terms and  
10 conditions would you think would be important in  
11 an interconnection agreement in order for the  
12 Commission to order IP-to-IP interconnection?

13 A. I don't think it would be -- if the  
14 Commission has the ability to order IP  
15 interconnection, I don't think it would be that  
16 different from the typical requirements for  
17 non-IP-to-IP interconnection. There is one  
18 element I think that would be somewhat different  
19 here and that is dealing with the -- if AT&T had a  
20 completely TDM network at this time would they  
21 have an obligation to turn all that TDM traffic  
22 into IP traffic.

1                   That is an additional element  
2   beyond what we normally experience in a TDM-to-TDM  
3   world and I think because of the difference here  
4   that would need to be spelled out what obligation  
5   there is whether it would be an obligation that is  
6   imposed on TDM customers or whether IP-to-IP would  
7   only be applicable as far as AT&T U-verse  
8   customers. Details like that I think would be  
9   important in this case.

10           Q.       But we established that AT&T's  
11   network is not completely IP -- or not completely  
12   TDM, correct?

13           A.       That's my understanding, yes.

14           Q.       It has IP U-verse customers today,  
15   right?

16           A.       Yes.

17           Q.       And it has business VoIP customers,  
18   right?

19           A.       That's my understanding, yes.

20           Q.       Okay. Any other terms or conditions  
21   that you can identify, that would be important for  
22   the parties to negotiate?

1           A.       I think it would follow typical, you  
2       know, terms and conditions in an IP contract  
3       including, you know, points of interconnection.  
4       You know, the rights there. And just like I said  
5       the additional element that I just described. I  
6       could pull out an interconnection agreement and go  
7       through all the different details that are  
8       associated with POI. I think a lot of them are an  
9       issue in this case, but all those would be --  
10      would need to be addressed.

11                   I mean, for example, the parties  
12      didn't come to us with this agreement and say  
13      "We're going to connect in TDM-to-TDM format.  
14      That's it. One line." The whole contract spells  
15      out how that occurs and I think the same thing  
16      would have to happen for IP-to-IP.

17           Q.       Well, if the parties brought to you  
18      an interconnection agreement for approval, say  
19      it's negotiated and it's an IP-to-IP  
20      interconnection, you wouldn't need to see all  
21      those other terms and conditions, would you? What  
22      if the parties just said "We're going to

1     interconnect an IP," you wouldn't need to see  
2     anything else in order to approve it, would you?

3             A.       Let me qualify. I'm assuming you're  
4     talking about bringing an interconnection  
5     agreement to the Commission for approval. In that  
6     case, there might be an issue if all it said is  
7     we're going to connect to each other with -- that  
8     may leave other carriers unable to determine  
9     whether they have the same rights or not, whether  
10    they're getting the same agreement. If somebody  
11    opts in, will that be on the same terms and  
12    conditions.

13                    So there has to be enough detail  
14    to know what the general option is and whether it  
15    would discriminate against carriers and that's one  
16    of the things we have to evaluate when we get  
17    interconnection agreements is whether it's in the  
18    public interest or if it discriminates against  
19    other carriers.

20             Q.       Let's go into more detail. If the  
21    parties identified where the POI was going to be  
22    for IP interconnection and, say, the parties

1 identified there would be more than one POI in the  
2 State of Illinois, are there -- and the rest of  
3 interconnection agreement that we have before us  
4 that the Commission goes through and determines  
5 the other rates, terms and conditions and the  
6 general terms and conditions that apply to the  
7 parties, is there anything specific about IP  
8 interconnection other than the transition that you  
9 mentioned that we need to consider?

10 MS. SWAN: Objection. Calls for a  
11 legal conclusion and speculative.

12 MR. SCHIFMAN: I'll rephrase.

13 BY MR. SCHIFMAN:

14 Q. Is there anything other than the  
15 transition to IP that the parties would need to  
16 consider to satisfy your desires for the parties  
17 to have adequate terms and conditions related to  
18 IP-to-IP interconnection?

19 MR. FRIEDMAN: And in addition to  
20 all the other things he identified?

21 MR. SCHIFMAN: I believe he  
22 identified the location. I'm sorry. I didn't

1 mention the location of the POI's. I think those  
2 are the two that we've heard about so far.

3 BY THE WITNESS:

4 A. I can give you another example. If  
5 Sprint obtains an interconnection facility and  
6 leases that subject to TELRIC rates, will that  
7 have -- will that be compatible with delivering it  
8 to a point that is now IP-to-IP connection or not.  
9 I don't know. I don't know if that is technically  
10 feasible. If that works, I think the parties  
11 would have to specify if there is any differences  
12 there. It's just at this point just saying we're  
13 going to connect IP-to-IP without any of the  
14 details in these hundreds of pages of agreement  
15 it's difficult to determine whether it meets the  
16 standards of 251, 252.

17 BY MR. SCHIFMAN:

18 Q. If AT&T provides to AT&T Corp  
19 interconnection, do you agree that is evidence  
20 that it's technically feasible to connect with  
21 another carrier in IP format?

22 MR. FRIEDMAN: Objection to the

1 extent the question is in the form that is not  
2 supposed to be hypothetical because the evidence  
3 is that --

4 JUDGE HAYNES: I don't think you  
5 have your speaker on.

6 MR. SCHIFMAN: I don't believe he  
7 has the ability to object.

8 JUDGE HAYNES: Go ahead and make  
9 your objection.

10 MR. FRIEDMAN: I object to the form  
11 of the question. I think the question assumes  
12 there is an IP-to-IP interconnection between AT&T  
13 Illinois and AT&T Corp and the testimony is that  
14 there is no IP-to-IP interconnection between those  
15 two entities.

16 MR. SCHIFMAN: I believe  
17 Mr. Friedman's objection mischaracterizes the  
18 evidence. So I guess we're at loggerheads about  
19 that.

20 MR. FRIEDMAN: I think it can easily  
21 be cured by making it a hypothetical question.  
22 Please assume that there is an IP-to-IP

1 interconnection and then ask your question.

2 JUDGE HAYNES: Staff, do you object  
3 to the question?

4 MS. SWAN: Staff has no objection.

5 BY MR. SCHIFMAN:

6 Q. Dr. Zolnierrek, if it's determined  
7 that AT&T Illinois and AT&T Corp have an IP-to-IP  
8 interconnection, would you agree that that is  
9 evidence of the technical feasibility for another  
10 carrier to interconnect an IP format?

11 A. I don't -- not in this case anyway.  
12 In this specific case here. I think one of the DR  
13 responses that AT&T provided to us indicated that  
14 the traffic delivered to AT&T Corp was delivered  
15 in combined form. So that traffic delivered was  
16 not only voice traffic, but it included video  
17 traffic and broadband traffic and it's not clear  
18 to me that something -- that same aggregate of  
19 traffic to Sprint is technically feasible.

20 Q. Do you believe it's important for  
21 AT&T Illinois to not discriminate between its  
22 interconnection with its affiliated carriers as



1       opposed to a third-party like Sprint?

2               A.       Yes.

3               Q.       Okay.   So on page 14 of your  
4       testimony, you provide basically a good framework  
5       for a proposal to I guess resolve the IP issue, is  
6       that a fair characterization in your view of what  
7       this is?   But this is not regarding IP  
8       interconnections.   It's regarding a different  
9       section of the contract?

10              A.       Correct.   It's a format and I would  
11       say that what it does is it puts more specificity  
12       on the issue and doesn't preclude Sprint from  
13       pursuing it further under the contract.

14              Q.       Okay.   And are you aware that both  
15       AT&T and Sprint presented proposals in their  
16       language which addressed your general proposal?

17              A.       Generally, yes.

18              Q.       Okay.   And would it be fair to say  
19       that one of the proposals -- Sprint's proposal  
20       basically said that the parties had the ability to  
21       come back to the Commission regarding IP-to-IP  
22       interconnection regarding various terms and

1 conditions, but that the -- but it does have the  
2 right to come to the Commission in order to do so?

3 A. Can you refer me back to that? I  
4 just want to refresh.

5 Q. Sure. I think it's Burt page 36.

6 MS. SWAN: Is this redirect?

7 MR. SCHIFMAN: Of his rebuttal.

8 BY THE WITNESS:

9 A. Yes, I have that.

10 BY MR. SCHIFMAN:

11 Q. Okay. So did you have a chance to  
12 review Sprint's proposed language?

13 A. Yes, I looked it over.

14 Q. Does that appear to comport with  
15 your understanding of how the parties could  
16 resolve this issue in order to have an opportunity  
17 to bring it back to the Commission after they've  
18 proposed language regarding the implementation of  
19 voice IP-to-IP interconnection?

20 A. I don't believe. I think there's  
21 some provisions in there I wouldn't personally  
22 recommend the Commission adopt.

1           Q.       Okay. Okay. Let's turn to page 37  
2 of your testimony. Lines 774 to 778.

3           A.       Okay.

4           Q.       And this is the Inter-MTA issue  
5 seven and eight. That's what this testimony is  
6 referring to, right?

7           A.       Definitional issues, yes, I believe  
8 so.

9           Q.       One of the issues you say with  
10 Sprint's recommendation is that you would expect  
11 carriers of all types to quickly adopt the entire  
12 nation as their local calling area, do you see  
13 that testimony?

14          A.       Correct.

15          Q.       Do you have any -- as far as impact  
16 on consumers, do you think it's a good thing or  
17 bad thing for consumers -- for carriers to adopt  
18 broad local calling areas?

19          A.       Depends on which consumer you are  
20 and who your carrier is. I think the FCC listed  
21 exactly those things in the CAF order and said  
22 they were trying to balance the interest of the

1 various consumers.

2 Q. So issue 21 go to page 43 of your  
3 testimony. This is regarding interconnection  
4 facility audits?

5 A. Yes.

6 Q. Okay. So line 922 of your testimony  
7 you talk about Sprint taking advantage of the fact  
8 that AT&T Illinois is required to provide  
9 facilities for limited purposes at forward-looking  
10 Total Element Long Run Increment Costs, TELRIC?

11 A. Yes.

12 Q. What about TELRIC, has it been  
13 considered compensatory by the Supreme Court?

14 A. I would assume not.

15 Q. Okay. In your view, does TELRIC  
16 include a reasonable profit for the party  
17 providing the facility?

18 A. Yes.

19 Q. And do you have any understanding as  
20 to whether AT&T -- first of all, when were AT&T's  
21 interconnection facility rates developed at  
22 TELRIC?

1           A.       For -- are you talking about a  
2 specific element?

3           Q.       DS1, DS3, OC3 facilities.

4           A.       I'm trying to recall. There's been  
5 various TELRIC cases over the years. There has  
6 not been one for a while. I think the last one  
7 was one in 2004 and I'm not sure it addressed the  
8 interoffice facilities. I'm sorry. I just don't  
9 recollect off the top of my head.

10          Q.       Has any point since when those  
11 interoffice facility rates were established in  
12 Illinois, has AT&T petitioned the Commission for  
13 higher rates as such because their interoffice  
14 facility rates were not compensatory?

15          A.       Since the last time they filed  
16 rates, they haven't requested again, no.

17          Q.       Okay. But that was before 2004 at  
18 least, right?

19          A.       I can't recall the exact date. I  
20 think it was a 2004 order, but I don't recall for  
21 sure.

22          Q.       Okay. So when staff and

1 arbitrations like we're in, is it important -- I  
2 know staff has cited various Commission decisions  
3 as precedent in support of its testimony on one or  
4 other issues. When staff does that, does it look  
5 back at the specific language that was proposed by  
6 the parties for that particular issue in that case  
7 and compare it to what the specific language is by  
8 the parties in this case?

9 A. I can't speak for the entirety of  
10 the staff, but I can tell you that sometimes I do  
11 that and sometimes I do not.

12 Q. Do you think it's important to look  
13 at the circumstances that the parties are in when  
14 they're proposing the language at that point in  
15 time as opposed to just looking at how an issue  
16 was decided previously?

17 MS. SWAN: Objection.

18 BY THE WITNESS:

19 A. I think it depends on the  
20 circumstances. I mean, sometimes from the order  
21 you may be able to discern it's a direction of  
22 general applicability and sometimes you may need

1 to go back and say, you know, what are the  
2 circumstances that dictated this. I think it just  
3 varies circumstance by circumstance.

4 BY MR. SCHIFMAN:

5 Q. Okay. Pages 52 and 53 of your  
6 testimony. Starting on line 1130.

7 A. Okay.

8 Q. So you mention that the FCC has  
9 restricted the ability of carriers to obtain  
10 251(c)(2) interconnection for interexchange  
11 purposes?

12 A. Yes.

13 Q. Does that restriction in your view  
14 apply only if they're attempting to provide or to  
15 obtain interconnection just for interexchange  
16 purposes?

17 A. I believe that is what the language  
18 says.

19 Q. Okay. So this part of your  
20 testimony looks like you're attempting to -- you  
21 have an issue about Sprint maybe accepting traffic  
22 from other parties and then delivering it to AT&T,

1 is that your objection to the language that is in  
2 this section or is that one of your concerns?

3 A. Well, I mean, there are a number of  
4 issues in the case and I mean there's various  
5 aspects to every issue. Yes, that's one of the  
6 concerns is that, you know, with the current  
7 intercarrier compensation regime of the FCC that  
8 where there are differences in the required  
9 compensation it's the manner in which the  
10 interconnection is done. Those can be blurred or  
11 masked. That is a concern that I've had and I  
12 think the Commission has run into that  
13 circumstance already.

14 Q. Okay. But for this issue, do you  
15 understand that this is surrounding traffic that  
16 is directly exchanged by Sprint and AT&T?

17 A. What do you mean by directly  
18 exchanged?

19 Q. So this is mobile traffic delivered  
20 to AT&T for termination. Land -- this is  
21 mobile-to-land traffic here.

22 A. So it's traffic that Sprint mobile



1 hands to AT&T?

2 Q. Right, and there's not a third  
3 carrier involved?

4 A. That was my concern. There may be.  
5 There may be no way for anyone, but Sprint to know  
6 that.

7 Q. Is it your understanding that the  
8 parties have language in their interconnection  
9 agreement that addresses that issue?

10 A. I have seen that issue attempt to be  
11 addressed, but I'm not sure that I understand that  
12 it does address it.

13 Q. Okay. No further questions.

14 JUDGE HAYNES: AT&T, do you have  
15 cross?

16 MR. FRIEDMAN: AT&T does and I  
17 apologize for this, but may we take a moment  
18 because mostly I plan to ask Dr. Zolnierrek about  
19 an exhibit and my exhibit seems to be a bit messed  
20 up?

21 JUDGE HAYNES: Okay.

22

1 (Whereupon, a break was taken  
2 after which the following  
3 proceedings were had.)

4 JUDGE HAYNES: Okay.

5 C R O S S E X A M I N A T I O N

6 BY MR. FRIEDMAN

7 Q. How are you, Dr. Zolnierrek?

8 A. Doing well.

9 Q. Good. First thing I would like to  
10 ask you about is that provision of the  
11 administrative code that you looked at with  
12 Mr. Schiffman. Do you have that handy, that's  
13 Section 790.310?

14 A. Yes.

15 Q. I know that you testified that as  
16 you understand it there is an open question before  
17 the FCC as to whether IP-to-IP interconnection is  
18 within the purview of Section 251(c)(2), right?  
19 That's an open question?

20 A. Correct.

21 Q. Now, just for purposes of the moment  
22 I'm going to ask you to assume that the answer to

1     that question is no. Section 251(c)(2) does not  
2     govern IP-to-IP interconnection. Assume, for  
3     example, that the FCC so rules and is sustained by  
4     a federal court at some point in the future.

5                     If that is the situation, as you  
6     understand it, would IP-to-IP interconnection be  
7     required by Section 790.310 of the Commission's  
8     rules?

9             A.       Can you give me just a second? I  
10    want to look at the more broad rule.

11            Q.       Sure.

12            A.       I have to say that I think whether  
13    it is or not, my opinion is the Commission would  
14    have pretty limited authority. If the FCC  
15    determined that it did not have jurisdiction over  
16    IP-to-IP, I think my presumption would be neither  
17    would we under this particular rule.

18            Q.       Let me direct your attention to  
19    Subsection 790.310(a) Sub 2 where it requires that  
20    interconnection be provided at any technically  
21    feasible points within the ILEC network, do you  
22    see that?

1           A.       Yes.

2           Q.       To your non-lawyer's understanding,  
3   is the AT&T Corp switch that you talked about a  
4   little bit with Mr. Schiffman within the ILEC's  
5   network as stated in Subsection 2?

6           A.       That is a very difficult legal  
7   question that I'm not sure I can answer. I know  
8   if we're talking about basically AT&T  
9   subcontracting with AT&T Corp and using those  
10  facilities to provide its service whether or not  
11  that's considered within AT&T's Illinois network,  
12  I don't know.

13          Q.       Okay. I appreciate that. Now, your  
14  recommendation about what the Commission should do  
15  on these IP interconnection issues I think appears  
16  on pages 22 to 23 of your testimony starting at  
17  lines 450 and then continuing just to 465. That's  
18  your bottom-line recommendation, correct?

19          A.       Yes.

20          Q.       And I want to ask you one -- I'll  
21  call it a small question. The question in 454 and  
22  then 451 said "Please summarize your

1 recommendation with respect to issues 1/1a."

2 Don't you really mean to be referring also to

3 issues 11 and 18 which were related IP

4 interconnection issues?

5 A. That is correct.

6 Q. So that's your recommendation and

7 then to implement your recommendation you say what

8 you say, which Mr. Schiffman pointed out to you at

9 pages 14 and 15, where you cited something the

10 parties had agreed to on another issue as a model

11 for language that could go in the interconnection

12 agreement to govern IP interconnection, right?

13 A. Correct.

14 (Document marked as AT&T

15 Illinois Cross Exhibit No. 3

16 for identification.)

17 BY MR. FRIEDMAN:

18 Q. So could you now get in front of you

19 what I've marked as AT&T Cross Exhibit 3, which I

20 will eventually offer into evidence merely as a

21 demonstrative exhibit and I'll tell you what it

22 is. I want to ask you about the differences

1     between the two parties, the proposals in response  
2     to your suggestion and in order to try to do that  
3     in a comfortable fashion I put in the left-hand  
4     column on these two pages AT&T Illinois' proposal  
5     and I put in the right-hand column Sprint's  
6     proposal.

7                     I will not ask you to confirm  
8     that I got it right because that would take some  
9     time. I'll just represent that I did my best and  
10    if it turns out I didn't someone will correct me,  
11    but I will say that as we go through this I'd  
12    invite you if you think I got something wrong when  
13    I copied these provisions, let me know. I'll also  
14    tell you that, maybe unsuccessfully, I tried with  
15    different kinds of underlining to signal kind of  
16    related provisions.

17                    So, for example, one difference  
18    between the proposals the first one I note is that  
19    Sprint's proposal starts out by saying "subject to  
20    section" and then it refers to the following  
21    sections, right, and AT&T Illinois' does not have  
22    that particular language or that feature, right?

1           A.       Correct.

2           Q.       And does that jive with your  
3   recollection of the proposals at all? Do you kind  
4   of recall that or are you seeing it here on the  
5   piece of paper?

6           A.       Yeah, I'd have to go back and double  
7   check.

8           Q.       All right. I won't ask you to do  
9   that, but will you agree with me that it really  
10  doesn't matter whether that subject to phrase is  
11  included or not because even if it's not included  
12  it, in effect, is going to be subject to  
13  everything that follows because what follows in  
14  both parties' proposals in general terms is an  
15  ability to talk about language and come back to  
16  the Commission?

17          A.       I would have to go back and look at  
18  3.11.2.2.1 in the other section. I don't want to  
19  disregard them without going back and reviewing  
20  what they said. If you want me to review that, I  
21  can.

22          Q.       You know what, we'll do that and

1     maybe we'll come back.  AT&T's language, and I'm  
2     still in that first little paragraph, 3.11.2.2  
3     basically says that Sprint has to deliver the  
4     traffic to AT&T in TDM format and in contrast  
5     Sprint's language basically says that subject to  
6     what follows both parties have to deliver their  
7     traffic to each other in TDM format, do you see  
8     that difference?

9             A.        Yes.

10            Q.        If you were thinking about which  
11     parties' language was preferable, would that  
12     difference matter to you?  Do you like one way or  
13     the other better?

14            A.        Okay.  Let's step back.

15            Q.        Okay.

16            A.        So you're saying --

17            Q.        What I'm saying is this.  My goal  
18     here is to find out from you whether you have a  
19     preference for one parties' proposal or the other  
20     and I want to do it kind of piece-by-piece and one  
21     difference that I'm noting is that AT&T's proposal  
22     in the left column says that Sprint has to send



1     its traffic to us in TDM format, but it doesn't  
2     say that we have to send our traffic to Sprint in  
3     TDM, right?

4             A.        Okay.

5             Q.        On the other hand, Sprint's language  
6     says both of us have to hand the traffic to each  
7     other in TDM, do you see that?

8             A.        Yes.

9             Q.        Now, I'm asking you does that  
10    difference matter to you?

11            A.        Sitting here now, I don't think so.

12                    JUDGE HAYNES:  I don't think you  
13    have your mic on.

14                    MS. SWAN:  I'm sorry.  Just before  
15    Dr. Zolnierenk answers, I just want to note that  
16    I'm not objecting, but this is all out of context.  
17    So these are just provisions that have been pulled  
18    out without context.

19                    MR. FRIEDMAN:  Let me be very clear  
20    and maybe we should back up and I tried to do this  
21    too quickly.

22

1 BY MR. FRIEDMAN:

2 Q. You do recall, do you not, that in  
3 response to your suggestion of how -- of the sort  
4 of language that might go into the interconnection  
5 agreement on this IP issue you recall that Sprint  
6 proposed some language in its rebuttal testimony,  
7 right?

8 A. Correct.

9 Q. And AT&T did, likewise, propose some  
10 language?

11 A. Correct.

12 Q. I'm saying to you that this is all  
13 the language that Sprint proposed in that  
14 connection and all the other language that AT&T  
15 proposed in that connection?

16 A. That's my understanding.

17 Q. I'll make that representation to  
18 you. Do you have any reason to believe that's  
19 wrong?

20 A. No. I agree.

21 Q. That's our context. This is our  
22 proposal versus Sprint's proposal. Okay. Now,

1 again, I've identified this difference, the one  
2 where our language just requires them to give us  
3 language in TDM and their's has it going both ways  
4 and I'm asking you does that difference -- does  
5 that particular difference matter to you as you're  
6 thinking about which proposal might be preferable?

7 A. I don't think it makes a pragmatic  
8 difference. Potentially, I can see that AT&T is  
9 giving itself the right to deliver traffic in IP  
10 format to Sprint which doesn't seem equitable.

11 Q. All right. Then we'll make that  
12 change. Okay. We'll change our proposal then to  
13 accommodate that and we'll say if our language is  
14 adopted we can make it go both ways. Now, let me  
15 direct your attention next to -- we're in the left  
16 column. AT&T's language in 3.11.2.2.1, which I've  
17 underlined there, if you can just read that to  
18 yourself my question is are you okay with that  
19 language or is there something objectionable about  
20 it to you?

21 A. To the extent this mirrors what was  
22 in the proposal in the testimony, I'm comfortable

1 with that.

2 Q. Then if we could flip to the next  
3 page. I'm still on the left column. I did a bad  
4 job because I should have labeled these columns,  
5 but in 3.11.2.2.2 -- let me start again. The  
6 language with no underlining is essentially  
7 identical, do you agree with that?

8 A. I don't think so.

9 Q. Let me go at this another way.  
10 AT&T's underscored language in the left column,  
11 are you okay with that language?

12 A. Yes. I'm generally okay with AT&T's  
13 proposal.

14 Q. How about Sprint's language in  
15 3.11.2.2.2, do you have any problems with that?

16 A. Yes. I would at this point -- I  
17 think the basic assumption is that interconnection  
18 is technically feasible and that the network of  
19 the affiliate would be considered the network of  
20 AT&T Illinois that at this point making that  
21 declaration I think is premature.

22 Q. It seems like I went about this in a

1     very inefficient way because I'm getting the  
2     feeling if I had just asked you at the beginning  
3     whose proposal do you like better you would have  
4     said AT&T, is that right?

5             A.       That's correct.

6             Q.       And if I had said why -- if I had  
7     said why do you like AT&T's better, what would you  
8     tell me?

9             A.       Primarily, the biggest reason is  
10    that Sprint -- in Sprint's proposed language,  
11    Sprint deemed interconnection -- IP-to-IP  
12    interconnection to be technically feasible and I  
13    don't think that's been at least prior to the  
14    hearings and I didn't hear everything that went  
15    on, but that wasn't established I don't think in  
16    the record.

17            Q.       Let me suggest to you and it may be  
18    a different way of saying the same thing, another  
19    reason that AT&T's language is better and then I'm  
20    going to ask you if you agree. Sprint's language  
21    I submit requires the Commission to cross some  
22    bridges now that AT&T's language does not require

1 the Commission to cross. It -- Sprint's language,  
2 if the Commission were to adopt it, decides some  
3 things that don't have to be decided yet and  
4 AT&T's language does not have that characteristic,  
5 would you agree with that?

6 A. Yes, I agree with that.

7 Q. And let me put that yet another way.  
8 If the Commission were to adopt Sprint's language,  
9 can you see where AT&T might appeal to Federal  
10 District Court and have an appealable issue?

11 MR. SCHIFMAN: Objection.  
12 Speculation.

13 JUDGE HAYNES: I didn't hear the  
14 objection.

15 MR. SCHIFMAN: I just said  
16 speculation. He's asking the witness what AT&T is  
17 going to do based on a particular decision by the  
18 Commission.

19 MS. SWAN: The staff would have had  
20 a similar objection.

21 MR. FRIEDMAN: Let me rephrase.

22

1 BY MR. FRIEDMAN:

2 Q. You have been a witness for staff in  
3 a good many arbitrations, have you not?

4 A. Excuse me. Can you move closer to  
5 the microphone?

6 Q. You have testified on behalf of  
7 staff on a good many arbitrations that have  
8 yielded interconnection agreements, correct?

9 A. Correct.

10 Q. And in a general way you have a  
11 familiarity with the sort of things that get  
12 appealed, right?

13 A. Yes.

14 Q. I'm not asking you to speculate  
15 about what AT&T might do, okay, are we clear on  
16 that?

17 A. Yes.

18 Q. Can you -- would you agree with me  
19 when I say if the Commission were to adopt  
20 Sprint's language, you can imagine that AT&T could  
21 go to federal court and say the Illinois Commerce  
22 Commission just decided something that we think is

1 wrong and I'm not saying AT&T would win, but could  
2 you see that happening?

3 A. Yes.

4 Q. Now, on the other hand, if the  
5 Commission decides -- adopts AT&T's language where  
6 all it does is leave it for the parties to come  
7 back, can you imagine Sprint going to a Federal  
8 District Court and saying "We're not happy because  
9 the Commission didn't decide some stuff we wanted  
10 it to decide"? I'm just asking if you can foresee  
11 that as a realistic possibility?

12 MR. SCHIFMAN: Objection. Also  
13 regarding Sprint and the Commission and what --  
14 speculation as to what Sprint or the Commission  
15 may do in a particular situation.

16 JUDGE HAYNES: Sustained.

17 BY MR. FRIEDMAN:

18 Q. Just one last thing. You remember  
19 that Mr. Schiffman asked you to identify some  
20 particulars that would need to be included in  
21 interconnection language governing IP-to-IP  
22 interconnection, do you remember that general



1 subject?

2 A. Yes.

3 Q. And you mentioned things like how  
4 many points of interconnection there would be and  
5 where they would be, correct?

6 A. Correct.

7 Q. As you sit here without the aid of  
8 an existing interconnection agreement, for  
9 example, am I correct that you cannot think of all  
10 of the things that might need to be included?

11 A. No. Absolutely, there are -- yeah,  
12 correct.

13 Q. Okay.

14 MR. FRIEDMAN: That's all I have.  
15 Thank you.

16 JUDGE HAYNES: Redirect?

17 MS. SWAN: Can we take a few moments  
18 off the record?

19 MR. LANNON: Just one minute.

20 (Whereupon, a break was taken  
21 after which the following  
22 proceedings were had.)

1 JUDGE HAYNES: Let's go back on the  
2 record. Does staff have redirect for your  
3 witness?

4 MS. SWAN: Yes, your Honor.

5 R E D I R E C T E X A M I N A T I O N

6 BY MS. SWAN

7 Q. Just one question, Dr. Zolnierrek.  
8 When you're formulating your positions in cases  
9 like this case, are you motivated at all by the  
10 potential that a party may appeal the Commission's  
11 decision down the line?

12 A. No.

13 MS. SWAN: Thank you. That's all my  
14 questions.

15 JUDGE HAYNES: Okay. I think those  
16 are all the questions for Dr. Zolnierrek. Thank  
17 you, Dr. Zolnierrek. Okay. Who is next?

18 MS. SWAN: I believe we will have  
19 Mr. Omoniyi who we will go and collect.

20 (Whereupon, a break was taken  
21 after which the following  
22 proceedings were had.)

1 JUDGE HAYNES: Let's go back on the  
2 record. Staff, would you call your next witness,  
3 please.

4 MS. SWAN: Staff calls as its next  
5 witness Mr. A. Olusanjo Omoniyi.

6 JUDGE HAYNES: Good afternoon,  
7 Doctor. Can you please state your name for the  
8 record, how you pronounce it?

9 THE WITNESS: A. Olusanjo Omoniyi.

10 JUDGE HAYNES: Omoniyi. Please  
11 raise your right hand.

12 WHEREUPON:

13 A. OLUSANJO OMONIYI  
14 called as a witness herein, having been first duly  
15 sworn, deposeth and saith as follows:

16 JUDGE HAYNES: Thank you. I'm going  
17 to ask you to bring the microphone closer to your  
18 mouth.

19 THE WITNESS: Okay.

20 JUDGE HAYNES: Thank you.

21

22

1           D I R E C T           E X A M I N A T I O N

2                           BY MS. SWAN

3           Q.           Good afternoon, Mr. Omoniyi. Can  
4   you please state your full name for the record and  
5   spell your last name?

6           A.           A. Olusanjo Omoniyi. The last name  
7   is spelled O-M-O-N-I-Y-I.

8           Q.           Who is your employer and what is  
9   your business address?

10          A.           Illinois Commerce Commission.

11          Q.           And your business address?

12          A.           160 North LaSalle Street, Suite  
13   C-800, Chicago, Illinois 60601.

14          Q.           And what is your position at the  
15   Illinois Commerce Commission?

16          A.           I'm a policy analyst.

17          Q.           Did you prepare written exhibits for  
18   submittal in this proceeding?

19          A.           Yes.

20                               (Document marked as Staff  
21                               Exhibit No. 3.0 for  
22                               identification.)

1 BY MS. SWAN:

2 Q. Do you have before you a document  
3 which has been marked for identification as ICC  
4 Staff Exhibit 3.0, which consists of a cover page,  
5 a table of contents and 40 pages of narrative  
6 testimony and is entitled Direct Testimony of  
7 A. Olusanjo Omoniyi and which has been pre-filed  
8 on E-docket on January 15th, 2013?

9 A. Yes, I do.

10 Q. Did you prepare that document for  
11 presentation in this matter?

12 A. Yes, I did.

13 Q. Do you have any corrections to make  
14 to staff -- ICC Staff Exhibit 3.0?

15 A. No.

16 Q. Is the information contained in  
17 Staff Exhibit 3.0 true and correct to the best of  
18 your knowledge?

19 A. Yes.

20 Q. If I were to ask you the same  
21 questions as set forth in ICC Staff Exhibit 3.0,  
22 would your responses be the same today?

1           A.       Yes, they would.

2                   MS. SWAN:   Your Honor's, I move for  
3   admission into evidence ICC Staff Exhibit 3.0  
4   including all attachments thereto.   Excuse me.  
5   There are no attachments.   I misspoke.

6                   JUDGE HAYNES:   Any objection?

7                   MR. CHIARELLI:   No objection.

8                   MS. SWAN:   Mr. Omoniyi is now  
9   available for cross-examination.

10                   JUDGE HAYNES:   Staff Exhibit 3.0 as  
11   previously filed on E-docket is admitted.   Sprint?

12                   C R O S S           E X A M I N A T I O N

13                   BY MR. PFAFF

14           Q.       Well, I wasn't going to have much  
15   for you, but I can't waste the opportunity.   How  
16   are you doing, Dr. Omoniyi?   My name is Jeff  
17   Pfaff.   I just have a couple of questions for you.  
18   Do you agree that carriers should be permitted to  
19   file good faith disputes with respect to bills  
20   rendered by another party?

21           A.       Yes, indeed.

22           Q.       And the Commission should not adopt

1 language that would limit a carrier's right to  
2 file good faith disputes, would you agree with  
3 that?

4 A. Yes, I do.

5 Q. And even in proposed definitions  
6 that would limit a parties' ability to file good  
7 faith disputes, would you agree with that?

8 A. Yes.

9 MR. PFAFF: That's all. Thank you.

10 JUDGE HAYNES: Thank you. AT&T?

11 C R O S S E X A M I N A T I O N

12 BY MR. FRIEDMAN

13 Q. Good afternoon.

14 A. Good afternoon.

15 Q. A couple of questions about the  
16 deposit issues and I will start by referring you  
17 to page 13 of your testimony starting on line 284.

18 A. Okay.

19 Q. Are you there?

20 A. Yes.

21 Q. And there you say "I would recommend  
22 that the Commission find that the criteria for

1 determining who is required to post a deposit  
2 should not be based on a parties' ability to pay,  
3 but whether a party is paying its bills as the  
4 Commission has found in previous interconnection  
5 arbitrations." That's your quote and then you  
6 cite to the Level 3 Ameritech Illinois arbitration  
7 decision from the year 2000, correct?

8 A. Yes, that's correct.

9 Q. But in a decision four years after  
10 that in another arbitration decision, this one  
11 between MCI and SBC Illinois, the Commission  
12 specifically rejected the position that a deposit  
13 should only be required when a party fails to pay  
14 its bills, isn't that right?

15 A. Where are you referring to?

16 Q. I will show it to you. I thought I  
17 would take a stab at seeing if you had a recall of  
18 it. In the MCI and SBC arbitration in 2004,  
19 Docket 04-0469, do you recall the Commission  
20 specifically rejecting the position that a deposit  
21 should only be required based on a parties'  
22 failure to pay? No?



1           A.       I have to review it.

2           Q.       I'm happy to share. So what I have  
3 handed you is an excerpt from the Commission's  
4 arbitration decision in Docket 04-0469 and if  
5 you'll look at page 12. Again, this is just an  
6 excerpt. I think the whole decision is more than  
7 a hundred pages long.

8                   Do you see at the bottom of  
9 payment 12 there is an issue which had to do with  
10 which parties' deposit language should be included  
11 in the interconnection agreement?

12          A.       Yes, I do.

13          Q.       And actually I think that you  
14 testified for staff, do you recall that?

15          A.       Yes, I do. I do now.

16          Q.       And do you recall that in this case  
17 MCI argued the same way that Sprint is arguing  
18 here that a deposit is appropriate only based on a  
19 parties' failure to timely make payments?

20          A.       I agree with you on that.

21          Q.       I'm sorry?

22          A.       I said I will agree with you on

1       that.

2               Q.       You will?

3               A.       Yes.

4               Q.       Because in fact on page 13, the  
5       second paragraph down, it says "In accordance with  
6       the FCC's guidance, MCI's proposal permits a party  
7       to charge a deposit based on the other parties'  
8       failure to make timely payments under the ICA."  
9       Now, that is Sprint's position here, right, that a  
10      deposit should only be required based on a failure  
11      to timely pay?

12              A.       Correct.

13              Q.       Same as MCI's was there, correct?

14              A.       Yes.

15              Q.       And I'm still reading on page 13  
16      immediately after what I just read it says "SBC's  
17      proposal would permit the parties to charge a  
18      deposit based on any number of various triggers  
19      some of which, and, again, this is MCI talking,  
20      some of which are so broadly defined, subjective  
21      and ambiguous that they could be easily construed  
22      to require a party to pay a deposit even if that

1 party were honoring its payment provisions under  
2 the ICA."

3 Now, that is not too far away  
4 from what Sprint is saying in this case, right?

5 A. To a degree, yes, but let me --  
6 specifically with 04-0469, which is MCI, at the  
7 time in question MCI had actually filed for  
8 bankruptcy or were in the process of seeking  
9 bankruptcy. So the situation is a little bit  
10 different.

11 Q. Understood. And I figured we would  
12 talk some about that. And we may even come back  
13 to that, but do you recall that in that MCI  
14 arbitration SBC Illinois, as it then was, was  
15 proposing triggers for a deposit that were very,  
16 very similar to what it is proposing here?

17 A. Yes.

18 Q. And, in fact, I hope to do this in a  
19 shortcut way. I'm going to ask the ALJ's to  
20 take -- let me ask another question first.

21 The exact language that SBC  
22 Illinois was proposing is not shown in the

1 arbitration decision, is it, the actual language  
2 that it was proposing, right?

3 A. Yes.

4 Q. Yes, it is not shown there, but  
5 staff did recommend the adoption of SBC Illinois'  
6 proposed deposit triggers, right?

7 A. Yes.

8 Q. And the Commission adopted them,  
9 right?

10 A. Yes.

11 Q. And they are referred to by the  
12 number that they were Section's 9.2.1 to 9.2.4 in  
13 that case, do you see that?

14 A. Yes I do.

15 MR. FRIEDMAN: But, again, the  
16 language isn't there. In order to see the  
17 language that SBC Illinois was proposing and that  
18 the Commission adopted, I'm going to ask the ALJs  
19 to take administrative notice of a document which  
20 is in the Commission's files from that docket.

21 In that case, MCI filed an  
22 arbitration petition and attached to the petition

1     were redlined interconnection agreements just as  
2     we had here and that was filed on July 16th, 2004,  
3     and if one wants to see the language that the  
4     parties were proposing for deposits it's shown in  
5     that document. So I would just ask that  
6     administrative notice be taken of that attachment  
7     to MCI's arbitration petition in that case, again,  
8     because it's in the Commission's files.

9                     JUDGE HAYNES: Is there any  
10    objection to that?

11                    MR. SCHIFMAN: Do we know if there  
12    is any subsequent language that was proposed or is  
13    that the language that the Commission decided --  
14    as you know here, we had multiple changes to  
15    language as the process continued. Are you  
16    representing --

17                    MR. FRIEDMAN: There may be a good  
18    way to get around that.

19    BY MR. FRIEDMAN:

20                    Q.     Did you read the rebuttal testimony  
21    of our witness William Greenlaw in this case?

22                    A.     Yes, I did.

1           Q.       Do you recall that in his testimony  
2 he quoted the language that came out of that MCI  
3 arbitration, do you remember seeing that?

4           A.       No, I can't recall.

5           Q.       Okay.

6                   MR. FRIEDMAN:   The best I can do and  
7 I'm -- first, let me ask that administrative  
8 notice be taken and I don't know if you have an  
9 objection to that. I will go ahead and answer  
10 your question.

11                  JUDGE HAYNES:   So the testimony you  
12 just talked about in Greenlaw, is it the same  
13 language you want us to take administrative notice  
14 of?

15                  MR. FRIEDMAN:   Yes, but to be clear,  
16 Greenlaw says this is the language that he  
17 mirrored and if everyone is willing to accept  
18 that, that should do it, but out of -- we've had  
19 instances where -- for example, we've had a  
20 witness testify about what the LERG says and  
21 someone says we don't have the LERG.

22                  JUDGE HAYNES:   LERG isn't a

1 Commission docket.

2 MR. FRIEDMAN: Right, but all I'm  
3 saying is Greenlaw quotes it and if one wanted to  
4 verify the accuracy of his quote one could look at  
5 this document, the language in the document.

6 MR. PFAFF: I don't know how to say  
7 this. I would presume that Mr. Greenlaw would not  
8 put something in his testimony that was incorrect.

9 MR. FRIEDMAN: I think that's fair.  
10 If we can take that as Sprint's -- I guess I will  
11 add to that so that everything is fair and  
12 aboveboard.

13 My understanding is that the way  
14 Mr. Greenlaw got his language is by looking at the  
15 actual approved MCI interconnection agreement and  
16 if you're fine accepting that then we can just  
17 plow ahead and I'll withdraw the request for  
18 administrative notice.

19 MR. PFAFF: Is it your  
20 representation that the language in Mr. Greenlaw's  
21 testimony is the final language that came out of  
22 the order?

1 MR. FRIEDMAN: It is.

2 JUDGE HAYNES: Then I think that  
3 settles it and we don't need to deal with  
4 administrative notice.

5 MR. FRIEDMAN: Okay.

6 BY MR. FRIEDMAN:

7 Q. So you do agree with me even though  
8 you don't have the language in front of you that  
9 the language that MCI proposed in that case was --  
10 the deposit triggers were very similar to what  
11 AT&T Illinois is proposing here, correct?

12 A. I am going to agree.

13 Q. Now, you mentioned that MCI had been  
14 in bankruptcy?

15 A. Yes.

16 Q. And you mentioned that I think as  
17 perhaps by way of explanation for why staff might  
18 have recommended and the Commission might have  
19 made the decision it made in that case and a way  
20 that case is different from this case since Sprint  
21 has not recently been in bankruptcy, right, that  
22 was your point?



1           A.       Yes, that was my point.

2           Q.       But, of course, one of our deposit  
3 triggers that we proposed here is that we want to  
4 be able to ask for a deposit if the other party  
5 declares bankruptcy, right?

6           A.       If they declare bankruptcy?

7                   JUDGE HAYNES: I'm having trouble  
8 hearing you.

9 BY THE WITNESS:

10          A.       I'm confused with your question.

11 BY MR. FRIEDMAN:

12          Q.       All right. You know that in this  
13 case, Mr. Omoniyi, we are -- AT&T Illinois is  
14 proposing that we have the possibility of asking  
15 for a deposit under several circumstances, right?

16          A.       Yes.

17          Q.       And one of those circumstances is if  
18 the other party files for bankruptcy, right?

19          A.       I believe that was one of your  
20 suggestions.

21          Q.       Would you agree with me that if  
22 Sprint files for bankruptcy that we should be able

1 to ask for a deposit? I don't think they're  
2 gonna, but if they do, wouldn't you agree with me  
3 we should be able to ask for a deposit?

4 A. Yes, I do.

5 JUDGE HAYNES: What?

6 BY THE WITNESS:

7 A. I do.

8 BY MR. FRIEDMAN:

9 Q. What if Sprint publicly declared  
10 that it was unable to pay its debts as they come  
11 due, shouldn't we then be able to ask for a  
12 deposit?

13 A. That would not be too far from what  
14 I just said.

15 Q. Okay. Now, do you recall that in  
16 the MCI case it was certainly true that MCI had  
17 recently been through bankruptcy, but staff in  
18 that case also expressed the view that it was  
19 appropriate for the Commission when it was  
20 adopting deposit language to take into account the  
21 fact that other carriers might adopt that  
22 language, right, do you remember that?

1           A.       Yes.

2           Q.       So the Commission did take that into  
3 account to the best of your knowledge, right?

4           A.       Can I take a look at it?

5           Q.       Sure. Take your time. It's all  
6 right there.

7           A.       Okay.

8           Q.       I'm sorry. Were you ready with an  
9 answer?

10          A.       Yes, I'm ready. Can you restate  
11 your question?

12          Q.       As you understand it when the  
13 Commission in the MCI arbitration we're looking at  
14 when it adopted SBC Illinois' proposed deposit  
15 language, the Commission did take into account  
16 staff's recommendation the possibility that the  
17 deposit language might wind up in other carrier's  
18 interconnection agreements when they maybe would  
19 adopt the MCI agreement, right?

20          A.       Yes.

21          Q.       I want to change to a different  
22 subject and we'll do a little experiment. We'll

1 see how this works. I'm going to hand around a  
2 document and ask that it be a demonstrative  
3 exhibit and ask that it be marked as AT&T Illinois  
4 Cross Exhibit 4.

5 (Document marked as AT&T  
6 Illinois Cross Exhibit No. 4  
7 for identification.)

8 BY MR. FRIEDMAN:

9 Q. The subject I would like to talk  
10 with you about is the escrow issue and to set the  
11 table, you know that AT&T Illinois is proposing  
12 that if Sprint or a party that adopts Sprint's  
13 interconnection agreement wants to dispute a bill  
14 it needs to escrow the disputed amount, correct?  
15 You understand that that's our position?

16 A. Yes, I do.

17 Q. And Sprint's position as you  
18 understand it is that there should be no such  
19 escrow requirement?

20 A. Yes, indeed.

21 Q. And you have weighed in on Sprint's  
22 side of that issue, I believe, correct?

1           A.       That's correct.

2           Q.       Now, would you agree with me that  
3   let's say a carrier, Sprint or another carrier,  
4   disputes a bill that it receives from AT&T  
5   Illinois. As of the moment that the dispute is  
6   made, it may be a good dispute or a bad dispute --  
7   let me say that a different way.

8                   The billed party might turn out  
9   to be right or the billing party might turn out to  
10  be right. We don't know as of the moment the  
11  dispute is asserted, right, in the abstract?

12          A.       Perhaps.

13          Q.       Okay. Now, I want to -- let me tell  
14  you what I've done on this exhibit and be very  
15  clear about it. I want to discuss some  
16  possibilities with you. I prepared this exhibit.  
17  This exhibit does not pretend to represent any  
18  real world facts. This is just something to help,  
19  I hope, in the discussion you and I are going to  
20  have and we'll see how this goes. Let's imagine a  
21  possibility which is possibility number one. You  
22  see the square where there's a number one there?

1           A.       Yes.

2           Q.       Let's pretend that we have an  
3   interconnection agreement and it has an escrow  
4   requirement.   Okay.   So this is possibility number  
5   one.   There is an escrow requirement and I bill  
6   Sprint, Sprint disputes the bill and it turns out  
7   the bill was correct.   Sprint was wrong.   That's  
8   one possible outcome, correct?

9           A.       Okay.

10          Q.       Now, in that situation where Sprint  
11   had to escrow some money and I wind up winning,  
12   the escrow requirement didn't do any harm, right?  
13   All that happened -- when we look at it from the  
14   point in hindsight from history, all that happened  
15   was Sprint had to put some money in escrow and I  
16   wind up getting the money.   So that's fine.   Would  
17   you agree with that in that situation and we are  
18   just talking about that situation?

19          A.       I think no.   I don't agree with you.  
20   I think you're going beyond what I testified to  
21   because what I was trying to point out is the  
22   dispute is in good faith, but what you're talking

1     about is the deal is correct or something.  If  
2     Sprint has a good faith dispute with you, you have  
3     to sort it out between the two of you.  I don't  
4     see any amendment that Sprint should go ahead and  
5     deposit money into an escrow when it has a good  
6     faith dispute.

7             Q.       Let me try to go -- I understand it  
8     and I appreciate that, but let me try it a  
9     different way.  We may come out of this with an  
10    interconnection agreement with an escrow  
11    requirement.  That could happen, right?

12            A.       Yes.

13            Q.       We might have one or we might not  
14    have one, right?

15            A.       Yes.

16            Q.       And any given dispute Sprint may be  
17    right or we may be right, correct?

18            A.       That's correct.

19            Q.       So there are four possibilities in  
20    the world.  We have an escrow requirement and a  
21    billing dispute where Sprint is correct or we have  
22    an escrow requirement and AT&T is correct or we

1 have no escrow requirement and Sprint has a good  
2 dispute, they're correct, or we have no escrow  
3 requirement and the bill is correct. Those are  
4 the only four possible scenarios, right? It's  
5 simple logic.

6 A. Right.

7 Q. And I want to look at each of those  
8 four scenarios with you. The first one is number  
9 one. We have an escrow requirement, they dispute  
10 the bill, but the bill turns out to be correct.  
11 AT&T wins the dispute. That could happen, right?

12 A. Yes.

13 Q. Of course, that could happen. Now,  
14 in that situation, what has happened? Sprint has  
15 put some money in escrow for a while during the  
16 dispute. It turns out we know in hindsight they  
17 should have just paid the bill, but eventually I  
18 win the dispute, I get the money, the escrow  
19 requirement did no harm in that situation, right?

20 A. I'm confused with your hypothesis  
21 because you seemed to have mixed apples with  
22 oranges. If they have a good faith dispute with



1     you, I think I will stick with my recommendation  
2     which has been a position of the Commission in the  
3     past and not just the Commission, but the FCC that  
4     recommends if there is a good faith dispute, it  
5     shouldn't be any need for escrow because you're  
6     asking them to deposit money in an escrow. I  
7     would have to disagree with you.

8             Q.       All right. I'm going to go then to  
9     another subject. This happens be issue 57, which  
10    has to do with the possibility of a disconnection  
11    due to nonpayment. All right. And it has to do  
12    with the scope of the disconnection, do you  
13    remember that issue?

14            A.       Yes.

15            Q.       Let us assume for the sake of  
16    discussion that AT&T Illinois sends Sprint a bill  
17    every month and let's assume just for the sake of  
18    discussion that we bill Sprint for three things;  
19    collocation, facilities and call termination, are  
20    you with me?

21            A.       Yes.

22            Q.       So the bill is for those three

1 things and let's assume again just to simplify  
2 life that every month we bill Sprint \$1,000 for  
3 collocation, \$2,000 for facilities and \$5,000 for  
4 call termination and no one has to get up and say  
5 that we aren't going to be billing each other for  
6 call termination because this is a hypothetical so  
7 we get to do it however we want, are you with me?

8 A. Yes, I'm with you.

9 Q. We're assuming that.

10 A. Please proceed.

11 Q. So in some month we send them a bill  
12 like I just described and they pay us the \$1,000  
13 for collocation, they pay us the \$2,000 for  
14 facilities, but they don't pay us the \$5,000 for  
15 call termination. So that's the hypothetical.  
16 Okay?

17 A. Okay.

18 Q. Now, the bill due date passes, they  
19 haven't paid that amount so we send them a  
20 discontinuance notice under the interconnection  
21 agreement and it says "You didn't pay us for call  
22 termination. You've got to pay us." And by the

1 way we might also say you didn't dispute that bill  
2 because you understand we're talking about  
3 undisputed bills, right?

4 A. Okay.

5 Q. Because you understand we're not  
6 talking about disconnecting Sprint because of  
7 disputes. We're talking about undisputed bills,  
8 are you with me?

9 A. Yes.

10 Q. So we send them that notice and it  
11 says you have X number of days to pay and they  
12 don't pay and they also don't dispute. Then we  
13 send them a notice and say "That's it. We've had  
14 it. You pay us now or we're terminating." If I  
15 understand your position correctly, it is that we  
16 can stop terminating their calls because that's  
17 what they didn't pay for, but we have to keep  
18 providing them with collocation and facilities,  
19 correct? That's your position?

20 A. Yes.

21 Q. Why -- and I say this with no  
22 offense because this wouldn't happen to Sprint.

1     You have to imagine it's somebody else.   Why do I  
2     have to keep providing services to this deadbeat?

3                   MR. PFAFF:   I would object to the --  
4     in the scope of it, but we can continue.

5     BY MR. FRIEDMAN:

6           Q.       I just want to know what your  
7     thinking is.   They have proven they're not paying  
8     their bills and we send them the notices pursuant  
9     to our agreement and we're even fighting a little  
10    bit about how those notices work.   So the system  
11    has all been approved by the Commission.   Why  
12    should we have to keep providing services to a  
13    company that is not paying us?

14          A.       In my recommendation looking at if  
15    you were to use your scenario what I was  
16    recommending is you should be able to terminate  
17    services for -- I mean, terminate service for  
18    services that are not being paid for.   Otherwise,  
19    if you were to take your scenario, we may be  
20    looking at one hundred percent termination of  
21    services to Sprint.   Meaning you cut everything  
22    off when not everything is at stake.

1 I would want to see a situation  
2 where you don't end up cutting off the entire  
3 system to Sprint. Otherwise, you knock off, say,  
4 thousands, if not millions, of customers who have  
5 nothing to do or whose services are being paid for  
6 and I'm hoping they would be able to work things  
7 out a little bit better because your scenario  
8 seems to paint a picture where if care is not  
9 taken.

10 Q. I'm sorry. Where --

11 A. If care is not taken. You seem to  
12 suggest that you should be able to cut off Sprint  
13 completely a hundred percent you just gave three  
14 examples of services that -- and out of those  
15 three, two are paid for, one is not paid for, and  
16 there is no dispute.

17 So it's a situation where you'd  
18 be able to cut all the three should not be  
19 acceptable. I believe the parties can do better  
20 than that and the billing you may possibly have a  
21 situation like that you should be able to narrow  
22 the focus. Otherwise, we'll have a hundred

1     percent disconnection. That should not be  
2     acceptable.

3             Q.       Let me ask you a related question.  
4     I'm going to ask you to make an assumption. I  
5     want you to assume that the law, the general law  
6     of the State of Illinois, not telecommunications  
7     law, just general contract law, would allow a  
8     party to terminate in its entirety a contract if  
9     the other party breaches the contract by not  
10    paying its bills. I just want you to assume that  
11    is the law of the State of Illinois. Can you make  
12    that assumption with me?

13                   MR. PFAFF: Can I object?

14   BY THE WITNESS:

15             A.       Not really. Because --

16                   MR. PFAFF: Are you asking him for  
17    his legal conclusion?

18                   MR. FRIEDMAN: Obviously not. How  
19    did that sound like I was asking -- I simply asked  
20    him to assume.

21   BY MR. FRIEDMAN:

22             Q.       And I assume you don't know Illinois

1 contract law, right?

2 A. I would have to agree with you, but,  
3 if I may answer your question because I don't want  
4 to provide legal opinion. You asked me to assume.  
5 We're going too far. If you guys want to put that  
6 in the brief and the parties can discuss it, my  
7 advice would be they should do that.

8 Q. I think I will go ahead with my  
9 question, Mr. Omoniyi. I want you to assume for  
10 the sake of my question and we're not going to  
11 worry about here whether this is right or wrong.  
12 We will write about it in the briefs. I simply  
13 want you to assume under the law of Illinois a  
14 party can terminate a contract if the other party  
15 breaches the contract by not paying its bill, if  
16 that is the law of Illinois, would you recommend  
17 to the Commission that it diminish that right  
18 under Illinois contract law that AT&T Illinois has  
19 by saying AT&T Illinois cannot terminate a  
20 contract in its entirety if a party is just not  
21 paying for certain services, would that be your  
22 recommendation?

1           A.       No, I cannot.  You're asking me to  
2       assume too much.  I don't know.

3           Q.       That's fine.

4           MR. FRIEDMAN:  That's all the  
5       questions I have.

6           JUDGE HAYNES:  Does staff have  
7       redirect?

8           MS. SWAN:  No, we do not.

9           JUDGE HAYNES:  Okay.  Thank you,  
10      Dr. Omoniyi.

11                               (Whereupon, a break was taken  
12                               after which the following  
13                               proceedings were had.)

14           JUDGE HAYNES:  Let's go back on the  
15      record.  Good afternoon, Dr. Liu.

16           THE WITNESS:  Good afternoon.

17           JUDGE HAYNES:  Please raise your  
18      right hand.

19      WHEREUPON:

20                               QIN LIU

21      called as a witness herein, having been first duly  
22      sworn, deposeth and saith as follows:



1 JUDGE HAYNES: You're going to have  
2 to pull the microphone closer to you.

3 D I R E C T E X A M I N A T I O N

4 BY MS. ERICSON

5 Q. Good afternoon, Dr. Liu.

6 A. Good afternoon.

7 Q. Please state your full name for the  
8 record and spell your last name.

9 A. My name is Qin Liu, Q-I-N, L-I-U.

10 Q. Who is your employer and what is  
11 your business address?

12 A. Policy division. Illinois Commerce  
13 Commission.

14 Q. And what is your position at the  
15 Illinois Commerce Commission?

16 A. I'm policy analyst.

17 Q. And I'm sorry. Just to clarify.  
18 What is your business address?

19 A. 527 -- my business address?

20 Q. Is it 160 North LaSalle Street,  
21 Suite C-800, Chicago, Illinois 60601?

22 A. Yes.

1           Q.       Did you prepare any written exhibits  
2 for submittal in this proceed?

3           A.       Yes.

4                               (Document marked as Staff  
5                               Exhibit No. 2.0 for  
6                               identification.)

7 BY MS. ERICSON:

8           Q.       Do you have before you a document  
9 which has been marked for identification as ICC  
10 Staff Exhibit 2.0 --

11          A.       Yes.

12          Q.       -- which consists of a cover page,  
13 table of contents, 95 pages of narrative  
14 testimony, attached Exhibit 2.1 and is entitled  
15 Direct Testimony of Qin Liu, Policy Division,  
16 Illinois Commerce Commission?

17          A.       That's correct.

18          Q.       Did you prepare that document for  
19 presentation in this matter?

20          A.       Yes.

21          Q.       Do you have any corrections to make  
22 to your direct testimony?

1           A.       No.

2           Q.       Is the information contained in your  
3       direct testimony true and correct to the best of  
4       your knowledge?

5           A.       Yes.

6           Q.       If I were to ask you the same  
7       questions as set forth in your direct testimony,  
8       would your responses be the same today?

9           A.       Yes.

10                   MS. ERICSON: Your Honor, I move for  
11       admission into evidence ICC Staff Exhibit 2.0 and  
12       its attachment Exhibit 2.1.

13                   JUDGE HAYNES: Is there any  
14       objection?

15                   MR. PFAFF: No objections.

16                   MR. ANDERSON: No objection.

17                   JUDGE HAYNES: Okay. This was filed  
18       on January 15th?

19                   MS. ERICSON: Yes, it was. It was  
20       filed on January 15th, 2013.

21                   JUDGE HAYNES: Staff Exhibit 2.0 and  
22       Attachment 2.1 as previously filed on E-docket are

1 admitted.

2 MS. ERICSON: Dr. Liu is now  
3 available for cross-examination.

4 JUDGE HAYNES: Sprint?

5 C R O S S E X A M I N A T I O N

6 BY MR. PFAFF

7 Q. Good afternoon, Dr. Liu.

8 A. Good afternoon.

9 Q. My name is Jeff Pfaff. I'll be  
10 asking you some questions on behalf of Sprint and  
11 the first thing I will say is you have a really  
12 nice, soft voice. So I may not hear you and I'll  
13 ask you to speak into the microphone and if I ask  
14 you to repeat your answer, I hope you will.

15 A. Okay.

16 Q. Thank you. And I'd like to start  
17 off with some high level discussions about how the  
18 parties various networks work and you understand  
19 that the issues in dispute here have to deal with  
20 Interconnection Facilities and POI's and matters  
21 of that sort, correct?

22 A. Yes.

1           Q.       And I know that you have been in  
2       attendance sometimes during this hearing, but not  
3       necessarily through all of the witnesses, is that  
4       right?

5           A.       Yes.

6           Q.       So if I mistakenly believe that you  
7       were here during a certain piece of testimony, I  
8       apologize and please feel free to correct me. Do  
9       you understand that?

10          A.       Okay.

11          Q.       Thank you. I'm going to talk about  
12       the Sprint Demonstrative Exhibit 1. Have you seen  
13       this exhibit?

14                               (Document marked as Sprint  
15                               Redirect Exhibit No. 1 for  
16                               identification.)

17       BY THE WITNESS:

18          A.       Yes, I have.

19       BY MR. PFAFF:

20          Q.       Do you need a copy at your -- in  
21       front of you?

22          A.       Yes. Thank you.

1 MR. PFAFF: I'm sorry. Can I  
2 approach?

3 MS. ERICSON: Yes.

4 MR. PFAFF: It's Sprint Redirect 1.  
5 BY MR. PFAFF:

6 Q. Would you agree with me that the  
7 exhibit that you're looking at is duplicated by  
8 the whiteboard here?

9 A. Yes, correct.

10 Q. Because I may point to the board. I  
11 want to just make sure that we're looking at the  
12 same document.

13 A. Okay.

14 Q. I want to first talk about the  
15 various parties' networks and the way call flows  
16 go back and forth, is that okay?

17 A. Okay.

18 Q. So you would agree that the blue  
19 building on the far left-hand side, Sprint CMRS  
20 Chicago MSC, that's Sprint's switch, do you  
21 understand that?

22 A. Yes.

1           Q.       And would you agree that that's  
2       Sprint's network?

3           A.       Yes.   Can I ask for a clarification?

4           Q.       Sure.

5           A.       Is that switch located in Chicago or  
6       the Chicago LATA?

7           Q.       We'll say it's located in Chicago.

8           A.       Okay.

9           Q.       And then the building on the far --  
10       that's in the middle that is labeled AT&T Illinois  
11       Chicago tandem number 1, do you see that?

12          A.       Yes.

13          Q.       And you would agree that that is  
14       AT&T's network, is that correct?

15          A.       It will be part of AT&T's network.

16          Q.       And AT&T's network is bigger than  
17       just the tandem, correct?

18          A.       Yes.

19          Q.       And, in fact, let's move on and I'd  
20       like you to see the -- there is a blue line and a  
21       red dotted line that goes down to an AT&T Illinois  
22       end office number one?

1           A.       Yes.

2           Q.       Do you see that?

3           A.       Yes.

4           Q.       Would you agree that's also part of  
5   AT&T's network?

6           A.       Yes.

7           Q.       And moving straight down below  
8   there's an AT&T Illinois Chicago tandem number  
9   two, do you see that and an end office number two?

10          A.       Yes.

11          Q.       That's all part of AT&T's network,  
12   correct?

13          A.       Yes.

14          Q.       And I'd like to start off by just  
15   talking about a basic call flow between a Sprint  
16   end user and an AT&T end user and, first of all,  
17   do you see the Sprint network on the far left?

18          A.       Okay.

19          Q.       The blue building.

20          A.       Okay.

21          Q.       And normally we have a little  
22   cellphone that hangs off of that, but you would



1 understand that a Sprint end user calls on their  
2 cellphone and it gets to the Sprint MSC, correct?

3 I'm sorry. I said it's MSC, M-S-C, and the  
4 Sprint, that's the Sprint wireless switch?

5 A. You're assuming there is no roaming  
6 involved?

7 Q. No roaming involved.

8 A. Okay. Yes.

9 Q. So Sprint end user calling an AT&T  
10 end user and let's say the AT&T end user is this  
11 end user -- AT&T end user number one?

12 A. Okay.

13 Q. Do you see that, that's off the AT&T  
14 end office.

15 A. Yes.

16 Q. So the Sprint PCS customer places  
17 the call, the call goes from the Sprint switch on  
18 the far left-hand column at Sprint's network,  
19 Sprint's network delivers the call to the AT&T  
20 tandem, correct?

21 A. Yes.

22 Q. The AT&T network, is that correct?

1           A.       Yes.

2           Q.       The AT&T tandem delivers the call to  
3 the end office?

4           A.       Yes.

5           Q.       And the end office then delivers it  
6 to the person that is using the phone identified  
7 as end user number one, would you agree with that?

8           A.       I have to clarify. When you say  
9 AT&T network, if you mean the facility belongs to  
10 AT&T what if -- I'm not sure I agree with that if  
11 that facility is a lease to Sprint.

12          Q.       That's a good question. So I was  
13 talking about it going to the AT&T tandem. You  
14 would agree with me that the AT&T tandem is part  
15 of AT&T's network, is that right?

16          A.       If AT&T is using that. If AT&T is  
17 now leasing that out, that would be a part of the  
18 AT&T network.

19          Q.       Do you have any reason to believe  
20 that AT&T leases out its own tandem?

21          A.       I don't know. I'm just saying as a  
22 general matter if we're talking about facilities

1 or AT&T facilities I'm not sure that would include  
2 the facilities that AT&T leases out.

3 Q. I haven't even talked about  
4 facilities.

5 A. Okay.

6 Q. I'm just talking about the switches,  
7 do you understand that?

8 A. Okay.

9 Q. It goes to the AT&T tandem switch,  
10 right?

11 A. Okay.

12 Q. And the call -- you understand that  
13 the call would be switched by AT&T, do you  
14 understand what that means?

15 A. Yes.

16 Q. And AT&T switches the call to its  
17 end office, correct?

18 A. Yes, that's correct.

19 Q. And I just want to clarify in that  
20 call scenario the AT&T tandem is part of the AT&T  
21 network, is that right?

22 A. Yes. That's my understanding, yes.

1           Q.       Thank you. And on the other  
2       direction when an AT&T end user calls a Sprint PCS  
3       customer whose phone has a Chicago telephone  
4       number and so they would be associated with the  
5       Chicago MSC on the far left, so let's just say for  
6       sake of this discussion the Sprint PCS customer  
7       has a Chicago telephone number?

8           A.       You mean the Sprint end user  
9       customer number one?

10          Q.       Yes.

11          A.       Okay.

12          Q.       I don't even know if we identified  
13       end user number one. No. I don't want to talk  
14       about end user number one.

15          A.       Okay.

16          Q.       I want to talk about an end user  
17       that has a telephone number that is assigned to  
18       the Sprint wireless switch that is in the far  
19       left-hand column of this diagram?

20          A.       On the end user number three, you  
21       mean?

22          Q.       Not an end user number three. I'm

1       sorry.  It's not labeled anywhere.

2               A.       Okay.

3               Q.       This is a new end user, the Sprint

4       PCS end user.

5               A.       So it's not in the chart?

6               Q.       It's not in the chart.  Okay.  But

7       the Sprint end user has a telephone number and

8       that telephone number is assigned to the Sprint

9       switch on the far left-hand column?

10              A.       Okay.

11              Q.       All right.  So when AT&T's end user

12       calls that Sprint PCS end user, I want to describe

13       the call flow.  So it's the Chicago end user

14       number one, going to the AT&T end office number

15       one, goes up to the tandem and then goes over to

16       the Sprint PCS switch, correct?

17              A.       Okay.

18              Q.       And it goes from -- the AT&T tandem

19       is the AT&T network, correct?

20              A.       That's my understanding.

21              Q.       And the Sprint MSC is Sprint's

22       network, is that right?

1           A.       Yes, that's my understanding.

2           Q.       Now, so in that -- those call flows  
3       that we've discussed and the carrier switches, the  
4       AT&T switch and the Sprint PCS switch, you've  
5       agreed this is AT&T's network, correct?

6           A.       It is a point on AT&T's network,  
7       yes.

8           Q.       I'm sorry. The AT&T tandem is part  
9       of AT&T's network, is that right?

10          A.       Yes, that's my understanding.

11          Q.       And the Sprint MSC, the Sprint  
12       switch, is Sprint's network, is that right?

13          A.       That's my understanding.

14          Q.       And the call the last call that I  
15       described where the AT&T end user calls the Sprint  
16       PCS end user the AT&T network delivers the call to  
17       the Sprint network, would you agree with that?

18          A.       Yes.

19          Q.       Okay. And in the reverse direction  
20       when a Sprint end user calls AT&T end user number  
21       one, the Sprint switch, the Sprint network,  
22       delivers the call to the AT&T network, would you

1 agree with that?

2 A. Yes.

3 Q. Now, starting I'd like you to turn  
4 to your testimony now on 48. Are you there?

5 A. Yes. Can you point out to me the  
6 line number you're looking at?

7 Q. Well, I want to talk about actually  
8 your question and answer starting on 1193, do you  
9 see the question there?

10 A. Yes.

11 Q. And it continues on page 48 and 49  
12 and specifically I want to turn your attention to  
13 line 1200.

14 A. Okay.

15 Q. Do you see that?

16 A. Okay.

17 Q. And you say that transit traffic is  
18 defined as traffic between Sprint and a  
19 third-party service provider with AT&T as the  
20 intermediate transport provider -- intermediary  
21 transport provider, is that what you said?

22 A. Yes.

1           Q.       Now, I want to try to describe that  
2       call flow if I can.

3           A.       Okay.

4           Q.       For this example, we're going to say  
5       the Sprint PCS end user is calling a T-Mobile  
6       customer, do you see the T-Mobile switch?

7           A.       Yes.

8           Q.       And for sake of this drawing, the  
9       T-Mobile switch is connected to the AT&T tandem,  
10      do you see that?

11          A.       Yes.

12          Q.       So the Sprint caller originates the  
13      call, it's handed off to the Sprint PCS switch,  
14      correct?

15          A.       Yes.

16          Q.       It's delivered to the AT&T tandem,  
17      correct?

18          A.       Yes. I don't know where the POI is.  
19      When you say delivered traffic to the AT&T tandem  
20      number one, shouldn't they be delivering traffic  
21      to the point of interaction?

22          Q.       I'm not talking about the point of



1 interconnection here.

2 A. Okay.

3 Q. For sake of this drawing just assume  
4 that the T-Mobile switch here is connected to the  
5 AT&T tandem just like the Sprint switch is  
6 connected to AT&T tandem, do you see that?

7 A. Yes.

8 Q. So, again, the call gets from the  
9 Sprint switch delivered to the AT&T tandem,  
10 correct?

11 A. Yes.

12 Q. And delivered on to T-Mobile --

13 A. Yes.

14 Q. -- the T-Mobile switch?

15 A. Yes.

16 Q. And you claim that you say that AT&T  
17 is acting as an intermediary transport provider,  
18 correct?

19 A. That's correct.

20 Q. Are you aware of whether AT&T's  
21 tandem switches that call?

22 A. It makes no difference. The answer

1 to the question does not depend on whether AT&T --  
2 the traffic goes through AT&T's switch. I will  
3 say probably would, but my answer is that transit  
4 traffic here is not AT&T traffic.

5 Q. I'm sorry. That wasn't my question.  
6 My question was you indicate that AT&T is acting  
7 as an intermediary transport provider, correct?

8 A. Yes.

9 Q. So Sprint hands the call off to the  
10 AT&T tandem, right?

11 A. (Affirmative nod.)

12 Q. Do you know whether or not AT&T at  
13 the tandem switches the call or not?

14 A. I don't. I think it would, but it  
15 doesn't matter.

16 Q. Okay. All right. Now, you would  
17 agree, however, though, that that call goes from  
18 Sprint's network to the AT&T network, is that  
19 correct?

20 A. Yes, it touches -- if you say it  
21 touches AT&T network, yes.

22 Q. I don't -- we've agreed that that

1 call is delivered from the Sprint network to the  
2 AT&T network, is that right?

3 A. Yes, if AT&T is an intermediary  
4 transport provider, yes, the traffic will touch  
5 the portion of AT&T network that was used to  
6 provide the transport services.

7 Q. So it's delivered to AT&T's network,  
8 correct?

9 A. Yes.

10 Q. Thank you. And I want to talk about  
11 the other direction of transit and this time the  
12 call is going to originate with a T-Mobile  
13 subscriber?

14 A. Okay.

15 Q. So, in that case, T-Mobile will hand  
16 the call off to the AT&T network, is that correct?

17 A. Yes.

18 Q. And the AT&T network will then hand  
19 the call off to the Sprint network, is that right?

20 A. Yes, that's my understanding.

21 Q. Okay. And, similarly, I want to  
22 talk about IXC traffic.

1           A.       Okay.

2           Q.       So, here, the interexchange carrier  
3 is connected to the AT&T tandem, do you see that?

4           A.       Yes.

5           Q.       And you would agree with me that the  
6 IXC when it's delivering a call to a Sprint end  
7 user the IXC delivers the call to the AT&T  
8 network, is that right?

9           A.       Sorry. Repeat again.

10          Q.       Sure. The -- I'm sorry. I've  
11 started using IXC and I should have said IXC means  
12 interexchange carrier, do you understand that?

13          A.       Yes, I do.

14          Q.       And I will also say I'm kind of  
15 moving back and forth away from the microphone.

16                   MR. PFAFF: Court reporter, are you  
17 hearing me okay?

18                   THE COURT REPORTER: Yes.

19 BY MR. PFAFF:

20          Q.       The IXC delivers the call to the  
21 AT&T tandem, is that correct?

22          A.       It depends on if Sprint designate

1       that the AT&T tandem as its tandem, yes.

2               Q.       Thank you.   That's a very good  
3       point.   Let's presume for this example that Sprint  
4       PCS has designated the AT&T tandem as its tandem?

5               A.       Okay.

6               Q.       The IXC delivers a call to the  
7       Sprint network who then delivers the call on to --  
8       I'm sorry -- the AT&T network, the AT&T network  
9       then delivers the call on to Sprint PCS, is that  
10      right?

11              A.       That's my understanding.

12              Q.       Okay.   And I'm almost through this.  
13      One more direction.   If Sprint has an outbound  
14      call to an IXC, are you with me?

15              A.       Yes.

16              Q.       And let's just say we're going to  
17      get to this IXC.   Sprint end user over here on the  
18      far left-hand side that hands it off at the Sprint  
19      PCS switch, Sprint network, hands it off to the  
20      AT&T network, correct?

21              A.       We are in a hypothetically scenario,  
22      aren't we?

1           Q.       Your understanding of how call flows  
2 work and how carriers are interconnected with the  
3 IXC's.

4           A.       Yes, my understanding is Sprint  
5 doesn't have traffic from Sprint to IXC.

6           Q.       Very good. You're right. Sprint  
7 testified that it does not normally have outbound  
8 traffic to an IXC. I absolutely agree, but let's  
9 just say for the sake of this discussion we did.  
10 Thank you. Thank you for bringing that to my  
11 attention.

12                       So Sprint PCS user, wireless  
13 switch to the AT&T switch, correct, onto the IXC,  
14 correct?

15           A.       Yes.

16           Q.       Now, we've talked about six  
17 different call flows. Would you agree with me?

18           A.       I can't keep track of them.

19           Q.       I'll count them back for you.

20           A.       No, I take your word for it.

21           Q.       You don't have to take my word for  
22 it. Sprint PCS end user calling an AT&T end user

1 in the market, an AT&T end user calling a Sprint  
2 PCS end user, a Sprint PCS end user calling a  
3 third-party end user, a third-party end user  
4 calling a Sprint PCS end user, a Sprint -- an IXC  
5 delivering a call to Sprint PCS, Sprint PCS  
6 delivering the call to the IXC, is that correct?

7 A. Yes.

8 Q. My mouth is a little dry. And  
9 you've agreed with me that in all those calls  
10 there is traffic that is delivered from the Sprint  
11 network and it's delivered to the AT&T network, is  
12 that right?

13 A. Assuming all the traffic comes  
14 through that point, yes.

15 Q. And assuming this is the point, the  
16 tandem, right, that the IXC hangs off of and that  
17 T-Mobile hangs off of, right?

18 A. Under that assumption, yes.

19 Q. So it goes from Sprint network to  
20 AT&T network and AT&T network back to Sprint  
21 network, wouldn't you agree with me?

22 A. Yes.

1           Q.       So wouldn't you agree with me then  
2       that with respect to transit and IXC traffic that  
3       this is traffic received and delivered between the  
4       parties' respective networks?

5           A.       No.

6           Q.       Okay. Can you explain why not?

7           A.       Because the Section 251(c)(2)  
8       traffic is traffic terminated to and originating  
9       from AT&T end user customer. Not just any traffic  
10       that touches AT&T's network.

11          Q.       And I'm sorry. I understand that  
12       it's your view --

13          A.       Yes, it's my view.

14          Q.       -- that there has to be an end user.  
15       I want you to tell me again why the call flows  
16       that I described is not traffic exchanged between  
17       our two parties' networks?

18                   MS. ERICSON: Can I interrupt for  
19       one minute, Mr. Pfaff?

20                   MR. PFAFF: Yes.

21                   MS. ERICSON: You seem to be  
22       flipping between actual and hypothetical



1 scenarios. Could you just clarify which one  
2 you're talking about when you ask a question?

3 MR. PFAFF: I will tell you this.

4 In actual traffic flows, there is a Sprint end  
5 user calling an AT&T end user, an AT&T end user  
6 calling a Sprint end user --

7 MS. ERICSON: In your actual  
8 question to Dr. Liu.

9 BY MR. PFAFF:

10 Q. I will just say of all the traffic  
11 flows that I described before, the six different  
12 traffic flows, all of those occurred with one  
13 exception, and that exception is that Sprint PCS  
14 does not normally originate IXC traffic? That was  
15 the exception that you pointed out, correct?

16 A. Yes.

17 Q. Other than that exception, all of  
18 the other traffic flows exist between our two  
19 carriers, do you understand that?

20 A. Sorry. I didn't catch your last  
21 sentence.

22 Q. Okay. You understand that other

1     than a Sprint PCS end user calling an IXC through  
2     the AT&T network, other than that call flow, all  
3     the other call flows exist between our two  
4     parties, correct, between AT&T and Sprint?

5             A.       I would disagree with that.  It  
6     depends if -- you talk about engineer point of  
7     view.  Does it touch AT&T's network?  Yes.  But  
8     from a legal point of view, they are different  
9     traffic.  I believe the traffic terminates --  
10    Section 251(c)(2) traffic is a legal matter.  It  
11    is not from engineer point of view whether the  
12    traffic is delivered to AT&T network or not.  I  
13    think under Section 251(c)(2) it has its own  
14    definition, it's own meaning.

15            Q.       Again, I understand what your view  
16    is, what the statute in the rules say, and we will  
17    get to that later.  The point of my discussion  
18    with you was to at least agree that the traffic is  
19    going back and forth between the two parties'  
20    networks?

21            A.       To the extent that AT&T is providing  
22    transport services, yes.

1           Q.       Okay. I guess let's talk about  
2       that. When the call is going through the tandem,  
3       do you believe that AT&T is providing tandem  
4       switching?

5           A.       Yes.

6           Q.       So when a Sprint end user calls an  
7       AT&T end user, Sprint -- I mean, AT&T is providing  
8       tandem switching, correct?

9           A.       Yes.

10          Q.       And when a Sprint end user calls a  
11       T-Mobile end user, AT&T is providing tandem  
12       switching, is that correct?

13          A.       Yes.

14          Q.       So the same functionality is being  
15       provided, correct?

16          A.       Yes.

17          Q.       And the tandem is part of AT&T's  
18       network, correct?

19          A.       Yes.

20          Q.       So I'm going to ask this again.  
21       Wouldn't we agree on the call --

22                   MS. ERICSON: Objection, your Honor.

1 This is asked and answered.

2 JUDGE HAYNES: I don't know what the  
3 question was going to be.

4 BY MR. PFAFF:

5 Q. I'm going to ask you whether or not  
6 traffic is exchanged between the two parties'  
7 networks in the call flows that I described?

8 A. There is no traffic exchange under  
9 Section 251(c)(2) except the one from AT&T end  
10 user customer and Sprint end user customer. The  
11 other scenario AT&T is providing transport  
12 services. So there is no traffic exchanged in the  
13 meaning of Section 251(c)(2).

14 Q. And I guess I'm going to ask you to  
15 explain to me why you don't believe that traffic  
16 is being exchanged between my network and AT&T's  
17 network in those call flows?

18 A. Under Section 251(c)(2), traffic  
19 exchanges to or from AT&T end user customers.  
20 That's my opinion.

21 Q. Okay. Is that your opinion on  
22 behalf of the policy division of the Illinois

1 Commerce Commission?

2 MS. ERICSON: Asked and answered.

3 MR. PFAFF: I think I can ask her  
4 that.

5 BY THE WITNESS:

6 A. I don't know what you mean by on  
7 behalf of policy division.

8 BY MR. PFAFF:

9 Q. You provided testimony on behalf of  
10 the policy division of the Illinois Commerce  
11 Commission, correct?

12 A. If you mean whether everyone else  
13 shared my view, I cannot answer that. I did not  
14 discuss my testimony with everyone.

15 Q. I'm sorry. I guess I'm a little bit  
16 unclear.

17 MS. ERICSON: Your Honor, this is  
18 getting argumentative.

19 MR. PFAFF: Could I ask Ms. Liu who  
20 she provided testimony on behalf of?

21 JUDGE HAYNES: I think you did that  
22 already.

1 MR. PFAFF: Okay. I guess I wasn't  
2 clear on what her answer was.

3 MS. ERICSON: It's in the record.

4 JUDGE HAYNES: Asked and answered.  
5 Objection sustained.

6 MR. PFAFF: I'm sorry.

7 JUDGE HAYNES: She has testified who  
8 she -- it is asked and answered.

9 MR. PFAFF: Okay. Thank you.

10 BY MR. PFAFF:

11 Q. Dr. Liu, did you review the CAF  
12 order in preparation of preparing your testimony?

13 A. I looked at some of it. Most of it  
14 is not relevant to my testimony.

15 Q. And I noticed you didn't bring a  
16 copy with you, did you?

17 A. No.

18 Q. I'd like to bring a copy up to you  
19 if your counsel wouldn't mind.

20 MS. ERICSON: Can I see the version?  
21 Do you have an extra copy of your version?

22 MR. PFAFF: It's just the order.

1 BY MR. PFAFF:

2 Q. It's a pretty big document, isn't  
3 it?

4 A. Yes.

5 Q. I notice that you did not cite to  
6 the CAF order very often in your testimony, did  
7 you?

8 A. Yes. Because it is not relevant to  
9 my testimony.

10 Q. Now, would you agree with me that  
11 the FCC has ruled that all traffic is 251(b)(5)  
12 traffic?

13 A. I don't know that, but that's the  
14 conversation that you now address.

15 Q. Can you turn to paragraph 972 of  
16 that order, please? Would you agree with me that  
17 part of the focus of your testimony had to do with  
18 the use of Interconnection Facilities?

19 A. Yes.

20 Q. Are you there at paragraph 972?

21 A. Yes.

22 Q. Did you review that paragraph in

1 preparation for your testimony?

2 A. I read it, but it's not relevant.

3 Q. Okay. Can you explain to me why you  
4 believe it's not relevant?

5 A. In my testimony, I think the only  
6 dispute is traffic -- number one, traffic and IXC  
7 traffic both types of traffic are now traffic  
8 exchanged with AT&T. In other words, they are not  
9 traffic from AT&T to end user customers. Here,  
10 the traffic here exchange traffic with incumbent.

11 So, for example, for  
12 interexchange traffic between AT&T end user  
13 customers and Sprint, that issue is addressed in  
14 issue 30 by Dr. Zolnierrek. It's outside the scope  
15 of my testimony.

16 Q. Again, part of the focus on your  
17 testimony had to do with what was the appropriate  
18 use of 251(c)(2) Interconnection Facilities, is  
19 that correct?

20 A. Yes, I think I will agree that the  
21 traffic between AT&T and Sprint end user customers  
22 we are agreed upon -- in agreement on that. The



1     dispute traffic is, number one, traffic and IXC  
2     traffic.

3             Q.       Not to put words in your mouth, but  
4     you would also disagree with transit traffic,  
5     correct?

6             A.       Yes, but I don't really address  
7     transit. Transit traffic is addressed by  
8     Dr. Rearden.

9             Q.       Well, you did address in your  
10    testimony, again, on page 48 you stated that  
11    transit traffic shouldn't be delivered over  
12    Interconnection Facilities, is that correct?

13            A.       I say transit traffic is not Section  
14    251(c)(2) traffic.

15            Q.       And is there some difference between  
16    those two statements?

17            A.       Meaning Sprint doesn't have a legal  
18    right to deliver that traffic on cost-based  
19    interconnection agreement. Whether Sprint would  
20    do it or not depends if parties in agreement,  
21    Sprint may do it. Similarly, Sprint doesn't have  
22    the legal rights to do and ICC has not made a

1 ruling on this issue.

2 Q. Turn to paragraph 972. Do you see  
3 in the middle of the paragraph the statement that  
4 starts off "However"?

5 A. Okay.

6 Q. It says -- I'm just going to ask you  
7 if you agree with the statement or not. "However,  
8 as long as an interconnecting carrier is using the  
9 251(c)(2) interconnection arrangement to exchange  
10 some telephone exchange service and/or exchange  
11 access traffic, Section 251(c)(2) does not  
12 preclude that carrier from relying on the same  
13 functionality to exchange other traffic with the  
14 incumbent LEC as well," do you agree with that  
15 statement?

16 A. If you're asking whether I agree  
17 with FCC or not, I do not have option not to agree  
18 with FCC.

19 Q. Okay. So are you saying that you  
20 agree with this statement?

21 A. This is what FCC said. You ask me  
22 whether I agree with FCC. I do not have option to  
983

1 not agree with FCC.

2 Q. Okay. So you would agree with me  
3 that the FCC is saying that a carrier is free to  
4 exchange other traffic over a 251(c)(2)  
5 interconnection facility?

6 A. That's what it says.

7 Q. Okay. That's not what your  
8 testimony said though, is it?

9 A. No. Like I said, this section  
10 doesn't apply to my testimony because my testimony  
11 deal with the three type of traffic. Number one,  
12 traffic and IXC traffic and the traffic between  
13 AT&T end user customers and Sprint end user  
14 customers.

15 Q. And I'm sorry.

16 A. So --

17 Q. We're going to go back to 972.

18 MS. ERICSON: Asked and answered.

19 MR. PFAFF: I get to ask another  
20 question about this.

21 JUDGE HAYNES: Is it going to ask  
22 for another legal conclusion?

1                   MR. PFAFF: I get to ask her about  
2 her understanding. She says she has to rely upon  
3 the FCC.

4                   MS. ERICSON: Your Honor, Dr. Liu is  
5 not an attorney. She testified as an economist.

6                   MR. PFAFF: She provided testimony  
7 on behalf of the Illinois Commerce Commission as  
8 to the right to use Interconnection Facilities for  
9 certain types of traffic.

10                  JUDGE HAYNES: Dr. Liu stated that  
11 she didn't rely on this paragraph for her  
12 testimony. So, beyond that, I don't know what  
13 you're going to get from her about this paragraph.

14                  MR. PFAFF: I'll tell you what. I  
15 just want to ask a couple more questions and if  
16 you want to object, you can.

17                  MS. ERICSON: We do object for the  
18 same reasons we've said.

19                  MR. PFAFF: I just want to ask her  
20 if she has an understanding of what the phrase  
21 means -- exchange other traffic means.

22

1 BY THE WITNESS:

2 A. It doesn't matter like I said. The  
3 traffic here is traffic between the -- in this  
4 case, the Sprint and AT&T end user customer and  
5 the disputed traffic in my testimony is not  
6 traffic between Sprint and AT&T end user  
7 customers.

8 JUDGE HAYNES: So please move on.  
9 She's explained her position on this.

10 MR. PFAFF: Okay. I'll move on.

11 JUDGE HAYNES: Thank you.

12 BY MR. PFAFF:

13 Q. So your view is that 251(c)(2)  
14 traffic --

15 A. Can I close this up?

16 Q. Sure. Your opinion is that  
17 251(c)(2) is limited to the exchange of traffic  
18 between one parties' end users and another  
19 parties' end users, is that correct?

20 A. The key part is to or from AT&T  
21 incumbent end user customers.

22 Q. So the two parties in this

1 interconnection agreement, the incumbent LEC and  
2 Sprint PCS?

3 A. (Affirmative nod.)

4 Q. And you do understand, though, as we  
5 discussed earlier that there is other traffic that  
6 is exchanged between the two parties' networks,  
7 between Sprint's network and AT&T's network there  
8 is traffic exchanged that is not end user traffic,  
9 would you agree with that?

10 A. You mean if it doesn't involve AT&T  
11 end user customer, yes.

12 Q. Okay. And you would agree that is a  
13 traffic exchange between our two networks,  
14 correct?

15 A. No, I answered that before several  
16 times, no.

17 MR. PFAFF: Your Honor, she's  
18 answered the same question two different ways.

19 THE WITNESS: No, I didn't.

20 BY MR. PFAFF:

21 Q. I asked you --

22 MS. ERICSON: Objection. This has

1     been asked and answered and just because counsel  
2     doesn't like the answer does not mean he can  
3     repeat the same question.

4                   JUDGE HAYNES:   I almost wonder if  
5     you should repeat your last question or maybe we  
6     can get the court reporter.

7                   MR. PFAFF:   Whatever you -- I can  
8     read the question.

9                   JUDGE HAYNES:   I agree that you've  
10    asked the question several times, but I also  
11    wonder if perhaps there is a slight  
12    misunderstanding the last time you asked it.   So  
13    ask that last one one more time.

14                   MR. PFAFF:   I'll be happy to ask it  
15    again.

16    BY MR. PFAFF:

17           Q.       And do you also understand that  
18    other than traffic that is from a Sprint end user  
19    to an AT&T end user, other than that traffic, you  
20    do understand that there is other traffic, namely  
21    transit traffic and IXC traffic, that is exchanged  
22    between the AT&T network and the Sprint network?

1           A.       No, I believe that I answered that  
2 before. No. Like I said, under Section 251(c)(2)  
3 traffic exchange between Sprint and AT&T involve  
4 AT&T end user customers.

5           Q.       And, Dr. Liu, I guess I'm going to  
6 try to ask -- I'm sorry. I really don't mean to  
7 be asking the same question, but I did not ask  
8 about traffic that was an AT&T end user and a  
9 Sprint end user. I didn't include that in my  
10 question.

11          A.       The answer does depend on whether  
12 the traffic is to or from AT&T end user customer.

13          Q.       I guess I disagree --

14                 MS. ERICSON: Judge, I think the  
15 question has been answered now and he has been  
16 given some leeway here.

17                 MR. PFAFF: I'll move on.

18                 JUDGE HAYNES: Okay. Good.

19 BY MR. PFAFF:

20          Q.       So your opinion is that these other  
21 types of traffic, the transit traffic and the IXC  
22 traffic, is not allowed to go over the 251(c)(2)



1 facilities, is that right?

2 A. It depends on what you mean by  
3 allow. Sprint doesn't have the legal rights to do  
4 so. However, if Sprint and AT&T reach agreement  
5 to have the traffic carryover the cost base  
6 entrance facility, it's fine.

7 Q. So you're saying if AT&T agrees to  
8 let me put that traffic over the 251(c)(2), you  
9 wouldn't have any objection?

10 A. If they agree with everything, I  
11 have no objection and go home.

12 Q. You're just saying they have no  
13 legal right?

14 A. No. Sprint doesn't have a legal  
15 right to do so.

16 Q. I'm sorry. Let me ask the question  
17 a different way. You're saying that AT&T doesn't  
18 have a legal duty to allow me to exchange that  
19 traffic, the transit traffic and the IXC traffic,  
20 over 251(c)(2) facilities, is that your testimony?

21 A. Yes.

22 Q. Okay. So if Sprint wanted to get

1 TELRIC pricing for certain facilities, it would  
2 have -- and only based upon AT&T's legal right.  
3 Okay?

4 A. Legal rights. You mean --

5 Q. AT&T's legal obligation. Thank you.

6 A. Okay.

7 Q. So, in your view, AT&T is only  
8 legally obligated to give me TELRIC pricing for  
9 traffic between our two end users, correct?

10 A. For facilities used exclusively for  
11 carrier traffic to or from AT&T end user  
12 customers, yes.

13 Q. That's a fair explanation. I would  
14 agree with that. You would agree, though, that  
15 there is this other traffic, right, the IXC and  
16 transit traffic going back and forth between the  
17 two parties, correct?

18 A. Yes.

19 Q. So how is that traffic then supposed  
20 to be exchanged?

21 A. I have no idea. You have to work  
22 that out with AT&T.

1           Q.       Well, under your view, I couldn't  
2   use the 251(c)(2) facilities, correct?

3           A.       I didn't say you can't. I said you  
4   don't have a legal right to.

5           Q.       AT&T doesn't have a legal obligation  
6   to provide those to me, right?

7           A.       Yes.

8           Q.       So if we want to continue to try to  
9   exchange those, those facilities need to be  
10  purchased out of some other mechanism, right?

11          A.       You can sell provisions, you can  
12  lease from a third-party or lease from AT&T.

13          Q.       Okay. Fair enough. I would agree  
14  with that. So -- but the effect would be I would  
15  have one pipe that was the 252 -- 251(c)(2) pipe,  
16  right?

17          A.       Yes.

18          Q.       For what you consider to be the end  
19  user traffic, right?

20          A.       I would call it Section 251(c)(2)  
21  traffic.

22          Q.       All right. And there needs to be a

1 second pipe, right, another pipe for this other  
2 traffic?

3 A. Yes, that's my understanding.

4 Q. Do you know who would be paying for  
5 that second pipe?

6 A. I think in this scenario I would  
7 think it would be both -- Sprint would pay for  
8 both.

9 Q. So Sprint would be paying for two  
10 pipes?

11 A. Yes, Sprint's traffic -- who pay  
12 for -- okay. Depend on who is ordering the  
13 facility. If Sprint ordering it, yes, Sprint  
14 would pay for it.

15 Q. All right. I would like to turn  
16 your attention to Sprint Exhibit No. 7, please.  
17 It should be the definitions.

18 MS. ERICSON: Do you have copies of  
19 those?

20 MR. LANNON: That's the 47 Section  
21 153.

22 MR. PFAFF: It's the 153, yes. Do

1     you have a copy for your witness or I can give her  
2     my copy? It doesn't have any highlighting or  
3     anything.

4                   MR. LANNON: Okay. Hang on just a  
5     minute. Here it is. I have one for you.

6                   MR. PFAFF: Everybody ready?

7                   JUDGE HAYNES: Yes.

8     BY MR. PFAFF:

9             Q.     Dr. Liu, are you ready?

10            A.     Yes.

11            Q.     I'd like to turn your attention I  
12     guess -- first of all, you understand these are  
13     the statutory definitions?

14            A.     Yes.

15            Q.     Are you familiar with those?

16            A.     No, not all of them.

17            Q.     Do you ever review those definitions  
18     in preparation for your testimony?

19            A.     For this one, no.

20            Q.     Have you reviewed them in the past?

21            A.     I don't recall. I don't recall.

22            Q.     You don't remember ever looking at

1       these definitions in the past?

2                       MS. ERICSON:   Asked and answered.   I  
3       think --

4       BY THE WITNESS:

5               A.       I don't recall.

6       BY MR. PFAFF:

7               Q.       Do you have a working understanding  
8       that the telecommunications statutes are included  
9       in 47?

10              A.       Yes.

11              Q.       Okay.   I'd like to turn your  
12       attention to the definition -- the definition of  
13       telephone exchange service and that's number 54.

14              A.       Okay.

15              Q.       Do you see there's two subparts to  
16       that?

17              A.       Yes.

18              Q.       Okay.   And --

19                      MS. ERICSON:   Your Honor, I think  
20       the witness said she did not look at this  
21       definition before today on the document that has  
22       been handed to her today.   I'm not sure what the

1 foundation would be for any questions to follow  
2 up.

3 MR. PFAFF: I guess -- I've asked  
4 her if she has a working understanding. She is  
5 testifying about the use of Interconnection  
6 Facilities. She said she testifies about -- she's  
7 testified about how the FCC has ruled on these  
8 matters.

9 JUDGE HAYNES: I thought she said  
10 she did have a working understanding of them.

11 MS. ERICSON: Based on the working  
12 understanding -- okay. That's fine.

13 BY MR. PFAFF:

14 Q. So do you see that definition?

15 A. Yes.

16 Q. And there are two subparts, A and B?

17 A. Yes.

18 Q. And one is service within the  
19 telephone exchange, do you see that part?

20 A. Yes.

21 Q. And then B is a comparable service?

22 A. Yes.

1           Q.       Do you understand that that's the  
2       definition that the FCC uses for telephone  
3       exchange service?

4           A.       If it's in the FCC rule, yes, I  
5       suppose.

6           Q.       Okay. Thank you. And do you have a  
7       more basic understanding about what telephone  
8       exchange service is?

9           A.       I'm not sure what you mean basic  
10      understanding.

11          Q.       Well, if I said the telephone  
12      exchange service is the service that allows an end  
13      user to make and receive calls, you wouldn't  
14      disagree with that, would you?

15          A.       No.

16          Q.       And you would agree that AT&T  
17      provides telephone exchange service to their  
18      subscribers, correct?

19          A.       Yes.

20          Q.       CLEC's provide telephone exchange  
21      service to their subscribers?

22          A.       Yes.



1           Q.       It allows their subscribers to make  
2   and receive calls, correct?

3           A.       Yes.

4           Q.       And I know that you said that  
5   CLEC's, C-L-E-C's, they provide telephone exchange  
6   service. Do all competitive carriers provide  
7   their customers telephone exchange service?

8           A.       I'm not sure what you mean. How do  
9   you define competitive carrier?

10          Q.       I'm sorry. Bad question. Would you  
11   also agree that wireless carriers provide  
12   telephone exchange service?

13          A.       I suppose so.

14          Q.       Is that a yes?

15          A.       Yes.

16          Q.       Thank you. Are you familiar with  
17   the Telecom Act of 1996?

18          A.       Not every section. Some of it.

19          Q.       Are you generally familiar with it?

20          A.       You mean generally every section of  
21   it? No.

22          Q.       Are you generally familiar with the

1 Telecom Act of 1996?

2 MS. ERICSON: Asked and answered.

3 Thank you.

4 JUDGE HAYNES: Why don't you direct  
5 your questions to a specific section.

6 BY MR. PFAFF:

7 Q. Would you agree that one of the  
8 objectives of the Telecom Act was to permit  
9 competitive carriers to provide telephone exchange  
10 service to their subscribers?

11 A. Sorry. Can you repeat that? I  
12 didn't catch it.

13 Q. Sure. Would you agree that one of  
14 the objectives of the Telecom Act was to permit  
15 competitive carriers to provide telephone exchange  
16 service to their subscribers?

17 A. I'm not sure what you mean by permit  
18 here.

19 Q. Well, the idea of the Telecom Act  
20 was to allow competitive carriers to come in and  
21 offer competitive services to the incumbent LEC's,  
22 correct?

1           A.       Yes.

2                   MS. ERICSON:  I'm going to object.

3   This witness isn't testifying as to the  
4   Congressional intent of the Telecom Act.

5                   JUDGE HAYNES:  Sustained.

6   BY MR. PFAFF:

7           Q.       All right.  In those same  
8   definitions, could you turn your attention to the  
9   definition of exchange access, please?  It's  
10  number 20.

11          A.       Okay.

12          Q.       Do you see that there, please?

13          A.       Yes.

14          Q.       And the term exchange access means  
15  the offering of access to telephone exchange  
16  services or facilities for the purpose of  
17  origination or termination of telephone toll  
18  services, do you see that?

19          A.       Yes.

20          Q.       Is that what it says?  I just asked  
21  if that's what that definition in 20 says?

22          A.       Yes.

1           Q.       And do you have -- do you understand  
2       that exchange access is the service that allows  
3       interexchange carriers to reach a local carrier's  
4       customer?

5           A.       You mean by local, does it include  
6       wireless?

7           Q.       Sure.

8           A.       Okay.

9           Q.       So going back to our diagram because  
10       we've spent some time away from it, it gets  
11       lonely, so when the IXC -- and I'm not talking  
12       about an AT&T end user here. So AT&T end user  
13       number one. I'm just talking about AT&T in this  
14       example. When they get a call from the IXC, it  
15       goes to the tandem, correct?

16          A.       Okay.

17          Q.       And the tandem provides tandem  
18       switching, would you agree?

19          A.       Yes.

20          Q.       And it delivers the call to the end  
21       office, correct?

22          A.       Sorry. What is the direction of

1 traffic? From IXC to --

2 Q. From the IXC through the tandem --

3 A. Okay.

4 Q. -- to the end office.

5 A. Yes.

6 Q. And then onto the end user?

7 A. Yes.

8 Q. Do you see that?

9 A. Yes.

10 Q. So the ILEC here, AT&T, would you  
11 agree with me that AT&T, the ILEC, is providing  
12 exchange access to the IXC?

13 A. Which portion?

14 Q. The tandem switching, the transport  
15 and the end office switching?

16 A. I would think here the exchange  
17 access will be from the POP to the end office.  
18 Not just from the tandem.

19 Q. So you're saying it's from there?

20 A. Yes.

21 Q. That's fine. I'm not discussing  
22 where they're providing it. You would agree that

1       they're providing exchange access?

2               A.       In that case, AT&T would be.   Yes.

3               Q.       Okay.   And in a case of a CLEC, a  
4       Competitive Local Exchange Carrier, that is  
5       connected to an AT&T tandem, receives a call from  
6       the IXC, can you visualize that call?

7               A.       You mean subtending AT&T's tandem?

8               Q.       I'm sorry.   Let me make the example  
9       a little easier.   See here Level 3?

10              A.       Okay.

11              Q.       Again, for sake of this question  
12       let's assume that the Level 3 CLEC subtends, hangs  
13       off of the AT&T tandem, are you with me?

14              A.       You see we have the tandem access  
15       tandem for Level 3.

16              Q.       Yes, the AT&T tandem.

17              A.       Okay.

18              Q.       So.   The interexchange carrier in  
19       that case delivers a call to the AT&T tandem,  
20       correct?

21              A.       Okay.

22              Q.       It is switched, correct?

1           A.       Okay.

2           Q.       And they deliver it onto Level 3,

3 correct?

4           A.       Okay.

5           Q.       Now, in that example, is Level 3

6 providing exchange access to the IXC?

7           A.       Depends on who is delivering

8 traffic. Okay. Who is going to deliver to

9 traffic from the POP to the Level 3?

10          Q.       The IXC delivering the call to the

11 AT&T tandem. Okay?

12          A.       Okay.

13          Q.       AT&T tandem delivering the call onto

14 Level 3.

15          A.       Level 3 is not providing exchange

16 access.

17          Q.       You're saying that Level 3 is not

18 providing exchange access to the IXC in that

19 example?

20          A.       You're saying the first segment IXC

21 is delivering the traffic, the second set AT&T is

22 delivering traffic. So, in that case, AT&T is

1 providing exchange access. Not Level 3.

2 Q. And I want to make sure I understand  
3 you because you said for a call that goes to an  
4 AT&T end user, AT&T is providing exchange access,  
5 correct?

6 A. Because AT&T is the one who deliver  
7 the traffic, yes.

8 Q. Okay. But what is different about  
9 the call from the IXC to Level 3 that is different  
10 from the call from -- of the IXC to the AT&T end  
11 user?

12 A. For AT&T end user because AT&T is  
13 the one that is providing the service. Level 3 is  
14 also -- AT&T is also the party that provides that  
15 service. Level 3 is not doing -- according to the  
16 description you gave, Level 3 is not doing  
17 anything.

18 Q. So is it your understanding that  
19 Level 3 does not charge the IXC anything for that  
20 call?

21 A. But in the description you provided,  
22 Level 3 is not doing anything.



1           Q.       Well, they're terminating the call,  
2   aren't they?

3           A.       If you mean the termination part,  
4   yes, probably.

5           Q.       I'm sorry. I guess I didn't take it  
6   to the next step where Level 3 delivered it on to  
7   their end user. So they would be providing the  
8   termination function to the IXC, correct?

9           A.       I am not sure whether end office is  
10   part of the exchange access. Sorry. I'm not  
11   sure.

12          Q.       So is it your testimony that  
13   exchange -- that end office switching is not  
14   exchange access?

15          A.       I said I don't know. I don't  
16   remember. I do not remember the compensation  
17   access charge calculation of whether end office  
18   termination is part of access charge. So that's  
19   why I'm not sure.

20          Q.       So in the call that I described  
21   where it's to Level 3, do you believe that AT&T is  
22   charging the IXC anything?

1           A.       If AT&T is providing the services to  
2   IXC, I would expect AT&T to charge IXC.

3           Q.       Okay.  So in the call I described,  
4   AT&T is likely providing tandem switching,  
5   correct, to switch the call to Level 3?

6           A.       Yes.

7           Q.       So your testimony would be that AT&T  
8   would charge the IXC, is that right?

9           A.       My testimony didn't discuss that  
10   scenario.

11          Q.       I'm sorry.  I'm talking about your  
12   testimony here today.

13          A.       If AT&T is providing the  
14   transmission, the switching functions, for -- to  
15   IXC, I expect AT&T to charge IXC.

16          Q.       I'm sure AT&T will be happy to hear  
17   that.  So in these call flows, wouldn't you agree  
18   that in order for a local carrier to compete with  
19   the incumbent LEC, it needs to provide exchange  
20   access?

21          A.       No.

22          Q.       You don't believe that's a service

1 or function that should be provided by a  
2 competitive carrier?

3 A. It is, but in Level 3 scenario, AT&T  
4 does not have a monopoly control over the exchange  
5 access services. Level 3 is free to connect with  
6 IXC. AT&T doesn't prevent Level 3 from connecting  
7 to IXC, from the IXC. So when you say competition  
8 with AT&T, AT&T is not monopolizing the market,  
9 the next segment of the market. So it doesn't  
10 make sense to say it's competing with AT&T. Level  
11 3 in that case would be monopolizing the market by  
12 monopolizing access to its end user customers.

13 Q. Do you understand that most  
14 competitive carriers do subtend --

15 A. Yes, I do.

16 Q. -- incumbent LEC's?

17 JUDGE HAYNES: One at a time. One  
18 at a time. Wait for him to finish his question  
19 before you answer, please. Restate the question.  
20 Restate your answer.

21 BY MR. PFAFF:

22 Q. Do you know that most competitive

1 carriers subtend the incumbent LEC's tandem?

2 A. I do know that most carriers, but I  
3 don't know what percentage.

4 MS. ERICSON: Counsel, for  
5 clarification purposes, are you still on page 48  
6 in terms of your line of questioning or where --  
7 what aspect --

8 MR. PFAFF: I'm just asking --

9 MS. ERICSON: -- in her direct  
10 testimony are you basing these questions on?

11 JUDGE HAYNES: One at a time. One  
12 at a time.

13 MS. ERICSON: What aspect of  
14 Dr. Liu's testimony are you basing these questions  
15 on?

16 MR. PFAFF: I am attempting to  
17 elicit Dr. Liu's understanding of the traffic that  
18 can go over 251(c)(2) facilities. Here. Let  
19 me -- I'll move ahead if you like.

20 MS. ERICSON: Thank you.

21 BY MR. PFAFF:

22 Q. 251. Do you have Exhibit No. 9?

1 MS. ERICSON: Are you talking about  
2 Sprint Cross Exhibit 9?

3 JUDGE HAYNES: Yes.

4 MS. ERICSON: Thank you. Yes, we  
5 have it.

6 BY MR. PFAFF:

7 Q. Do you see that, Dr. Liu?

8 A. Yes.

9 Q. And, specifically, your testimony  
10 has to do with the type of traffic that can be  
11 exchanged over 251(c)(2) facilities, is that  
12 correct?

13 A. Yes.

14 Q. Okay. Did you rely upon the  
15 definition of 251(c)(2) in reaching your opinion?

16 A. 251(c)(2) does not provide the  
17 detail. I believe I rely on the Supreme Court  
18 decision, FCC brief and Supreme Court decision.  
19 They provide more, I would say, interpretation.

20 Q. I'm sorry. I did not hear that very  
21 clearly. Can you slow down a little bit, please.

22 A. Section 251(c)(2), the language

1     there is not so clear.  It's vague.  So I rely on  
2     FCC's brief and the Supreme Court court  
3     decision -- in the Supreme Court Talk America case  
4     and the Supreme Court decision in that case.

5                     JUDGE HAYNES:  Did you say Talk  
6     America?  I'm sorry.

7                     THE WITNESS:  Yes.

8                     MR. PFAFF:  I'm hoping we've used  
9     that phrase before.

10                    JUDGE HAYNES:  I just want to make  
11     sure that's what she said.

12     BY MR. PFAFF:

13                    Q.        You will agree that the ILEC's, the  
14     incumbent LEC's, obligations are established in  
15     251(c)(2), correct?

16                    A.        Yes.

17                    Q.        And I want to point you then to that  
18     definition that is at the very bottom of the page,  
19     the first page, and C says "The additional  
20     obligations of incumbent local exchange carriers,"  
21     correct?

22                    A.        Yes.

1           Q.       And basically two says "The duty to  
2       provide for the facilities and equipment of any  
3       requesting telecommunications carrier," correct?

4           A.       Yes.

5           Q.       Interconnection with the local  
6       exchange carrier's network and then there's A.  
7       And it says "For the transmission and routing of  
8       telephone exchange service and exchange access,"  
9       is that correct?

10          A.       Yes.

11          Q.       I'm sorry. Is that correct?

12          A.       Yes.

13          Q.       Did I state that rule accurately?

14          A.       Yes. If this is accurate, I don't  
15       know.

16          Q.       So you would agree with me then that  
17       under 251(c)(2)(a) an ILEC has the duty to provide  
18       interconnection with its network --

19          A.       Yes.

20          Q.       -- for the transmission and routing  
21       of telephone exchange service and exchange access,  
22       correct?

1           A.       Yes.

2           Q.       And moving onto C.  Actually, it's  
3   on the next page.

4                   JUDGE HAYNES:  Can we just all agree  
5   the statute says what it says?

6                   MR. PFAFF:  I just want to make  
7   sure.  Just one small point.

8                   JUDGE HAYNES:  Okay.

9   BY MR. PFAFF:

10           Q.       And C says that "It's at least equal  
11   in quality to that provided by the local exchange  
12   carrier to itself or to any subsidiary, affiliate  
13   or any other party to which the carrier provides  
14   interconnection," is that what it says?

15           A.       That's what it says.

16           Q.       Is that another obligation of an  
17   incumbent LEC?

18           A.       Yes, it's written there.  It's not  
19   an obligation the part of obligation to -- for  
20   interconnection.

21           Q.       Again, you would agree that under  
22   the statutory language of 251(c)(2),



1 Interconnection Facilities can be used for the  
2 transmission and routing of exchange access?

3 A. Yes, but under Section 251(c)(2) I  
4 believe has to be to or from AT&T or incumbent end  
5 user customers. That is consistent with FCC  
6 interpretation in its brief and the Supreme Court  
7 Talk America case.

8 Q. All right. We've just read the  
9 statute.

10 A. Yes, I think FCC has authority to  
11 interpret that statute, yes.

12 Q. I'm just going to ask you is there  
13 any qualifier in the statutory language that says  
14 that the transmission and routing of telephone  
15 exchange service --

16 MS. ERICSON: Objection. It's asked  
17 and answered.

18 JUDGE HAYNES: Sustained.

19 BY MR. PFAFF:

20 Q. You would agree with me that there  
21 is nothing in that definition that says that it  
22 has to be between the parties' end users, correct?

1           A.       That's what it says.

2           Q.       I'm sorry.  Would you agree  
3   it doesn't say it has to be between --

4           A.       I --

5                   MS. ERICSON:  Asked and answered.

6   BY MR. PFAFF:

7           Q.       -- end users?

8           A.       It says what it says.  It didn't use  
9   end users word.

10          Q.       It doesn't use the word end users?

11          A.       The FCC did.

12                   MS. ERICSON:  Your Honor --

13   BY MR. PFAFF:

14          Q.       Moving to page 57 --

15          A.       Of my testimony?

16          Q.       -- of your testimony, please.  You  
17   see on line 1432 and, again, on page 58 it's lines  
18   1459 to 1461.

19          A.       Sorry.  What is the line number?

20          Q.       Page 58, 1459 to 1461.

21                   MR. LANNON:  Your Honor, could I  
22   interrupt for a minute?  I just got word from

1 Dr. Zolnierrek that some reason, Jeff, you're not  
2 coming through. Was it off?

3 MR. PFAFF: I must have knocked it  
4 off. I apologize. Nobody here was having trouble  
5 hearing me.

6 BY MR. PFAFF:

7 Q. Okay. Do you see that, Dr. Liu?

8 A. Yes.

9 Q. And in both places you indicate that  
10 AT&T is not providing service to the IXC, correct?

11 A. I think you're taking my words out  
12 of context. I believe in here I discuss in  
13 issue 24 AT&T is not a joint access provider in  
14 issue 24 in that context.

15 Q. Can you describe for me the call  
16 flow that you were talking about in your -- when  
17 you talked about in your testimony that you said  
18 AT&T was not providing exchange access?

19 A. It is not the call -- here in issue  
20 24 we are discussing the equal access trunks.  
21 Equal access trunks according to this chart  
22 connecting Sprint's office to AT&T tandem. That's

1 my understanding. So that's the second that was  
2 in issue 24.

3 Q. Let me go back to your testimony.  
4 Starting on line 1421 and you say "Exchange access  
5 service is the provision of access to telephone  
6 exchange service to an IXC to enable the IXC's  
7 provision of interexchange service," correct?

8 A. That's the general definition, yes.

9 Q. And the call flow that we're talking  
10 about is the IXC delivering the call to the AT&T  
11 tandem, correct?

12 A. You say delivered the traffic. I  
13 don't know that for a fact.

14 Q. Well, what traffic are you talking  
15 about?

16 A. I mean, who is delivering the  
17 traffic? If IXC is delivering the traffic, I  
18 believe it changed access server. Here, it means  
19 provision of access to telephone exchange service  
20 to an IXC. If IXC is delivering the traffic, the  
21 IXC is providing the service to itself.

22 Q. Okay. Who is the IXC delivering the

1 service to?

2 A. I have no idea. You mentioned IXC  
3 delivering the traffic.

4 MS. ERICSON: Your Honor, I think we  
5 need some clarification as to whether counsel is  
6 talking about the testimony here or one of his  
7 hypotheticals that he posed.

8 MR. PFAFF: I'm asking about her  
9 testimony.

10 BY MR. PFAFF:

11 Q. In her testimony, she says that the  
12 delivery of traffic between Sprint's network and  
13 IXC is a provision of access service and she says  
14 that AT&T is not providing an access service to  
15 the IXC or bills an IXC, correct?

16 A. You are taking my words out of  
17 context. The first sentence in that paragraph is  
18 a general statement of what exchange service  
19 means. Below, I address the issue under issue 24.  
20 Issue 24 does not cover the entire segment between  
21 Sprint network and IXC's point of presence. It  
22 covers the segment where Sprint leases the

1 facility from AT&T. The portion we call exchange  
2 equal access trunks.

3 Q. Okay. So issue 24 is Sprint's  
4 requirement to establish equal access trunk  
5 groups, correct?

6 A. In that context, AT&T is leasing  
7 facility to Sprint. It doesn't involve AT&T  
8 providing exchange access to IXC.

9 Q. Okay. I just want to make sure that  
10 I understand the call flow that you believe is  
11 implicated with those equal access trunk groups.  
12 Okay?

13 A. I'm not sure what you mean by call  
14 flow here.

15 Q. I mean, what direction the call is  
16 going, who the call is coming from.

17 A. It doesn't really matter. If that  
18 trunk is ultimately in between Sprint network and  
19 IXC and that's one portion of the facility used to  
20 provide exchange access.

21 Q. Let me ask you this question. Do  
22 you believe -- when you put together your

1 testimony on this issue, do you believe that  
2 Sprint CMRS here is directly connected to the IXC?

3 A. It doesn't really matter. If you  
4 not, whatever facility you lease will be the  
5 same -- my position/discussion will be the same.

6 Q. All right. Let me ask you this  
7 question. Just assume for me that Sprint's MSC is  
8 connected to the AT&T tandem. Okay?

9 A. Whose facilities?

10 Q. I didn't ask about facilities.

11 A. Okay.

12 Q. I just said assume for me that  
13 Sprint's wireless switch is connected to the AT&T  
14 tandem. Okay?

15 A. Okay.

16 Q. And that AT&T's tandem is identified  
17 in the LERG. Are you familiar with the LERG?

18 A. I've heard of it.

19 Q. And if you would just agree with me  
20 that the LERG tells other carriers where to route  
21 their traffic, correct?

22 A. Okay.

1           Q.       So the IXC -- so Sprint has  
2       designated AT&T and the LERG to receive traffic on  
3       its behalf, will you assume that for me?

4           A.       That would be hypothetical I assume.  
5       Okay.

6           Q.       Okay. You can look at the LERG and  
7       you can see that.

8           A.       You say Sprint doesn't have traffic  
9       on those IXC's. So I assuming your hypothetical.

10          Q.       I just want you to assume for our  
11       discussion here that AT&T and Sprint has  
12       designated the AT&T tandem in the LERG for it to  
13       receive traffic from other carriers, can you  
14       assume that, please?

15          A.       From other carrier? I'm not sure  
16       what other carrier you're talking about.

17          Q.       Specifically, from IXC's.

18          A.       Receiving traffic from IXC to  
19       Sprint?

20          Q.       Yes.

21          A.       Okay.

22          Q.       Wouldn't you agree with me then that



1 the IXC is going to deliver that call to the AT&T  
2 tandem?

3 A. It depends on what you mean by  
4 deliver. Who is the one that is providing the  
5 transmission?

6 Q. I didn't ask that question.  
7 Wouldn't you agree that the IXC in order to get  
8 the call to Sprint must deliver that call to the  
9 AT&T tandem?

10 MS. ERICSON: I think this has been  
11 asked and answered.

12 BY THE WITNESS:

13 A. Sprint is free to make provision  
14 facility to connect its network to IXC. If Sprint  
15 doesn't want self-provision facility, it is  
16 Sprint's choice.

17 BY MR. PFAFF:

18 Q. I asked you to assume for this  
19 question that we were already connected at the  
20 AT&T tandem, correct?

21 A. You have too many assumptions. You  
22 say if Sprint doesn't have a choice after all this

1 long list of assumptions. It doesn't make sense.

2 Q. We already discussed --

3 MS. ERICSON: Your Honor, this is  
4 getting a little argumentative. If we could ask  
5 counsel to please limit his questions to  
6 noncompound questions.

7 MR. PFAFF: Okay.

8 BY MR. PFAFF:

9 Q. We did discuss earlier. You agreed  
10 with me that many competitive carriers -- let me  
11 just ask you this. Do you know what subtend  
12 means?

13 A. I don't have a precise definition.

14 Q. All right. That many carriers use  
15 an incumbent LEC's tandem to receive calls from an  
16 IXC, right, didn't you say that?

17 A. No, I didn't say that. I said I  
18 know some, but I don't know how many.

19 Q. Okay. Some do, correct?

20 A. I suppose.

21 Q. Okay. And, in this example, suppose  
22 Sprint does that. Okay?

1           A.       Okay.

2           Q.       When the IXC is delivering the call  
3           and it wants to get the call to Sprint, it must  
4           deliver the call to the AT&T tandem, correct?

5           A.       That's because you make the  
6           assumption that CLEC's must subtend to AT&T.  
7           That's also optional choice the carrier makes.

8           Q.       I didn't make that assumption at  
9           all. We did presume that we are connected to --  
10          that Sprint is connected to the AT&T tandem?

11          A.       But that's an assumption you made.

12          Q.       And I asked you to make that  
13          presumption.

14          A.       You have too many assumptions and  
15          you say Sprint doesn't have a choice. It has to  
16          use AT&T network. But that doesn't make sense.  
17          If you make too many assumption, yes, you may not  
18          have many choices because you have assumed away  
19          your choices.

20          Q.       I'm not disagreeing with you that  
21          Sprint couldn't do something else. That wasn't my  
22          question. My question was if you assume that

1 Sprint is connected to that AT&T tandem, can you  
2 make that assumption?

3 A. If under that assumption, yes.

4 Q. And if you make that assumption, the  
5 IXC has to deliver the call to the AT&T tandem in  
6 order for Sprint to receive the call?

7 A. That would be a choice made by  
8 Sprint.

9 Q. I'll move on. I know you were in  
10 and out yesterday. Were you present for AT&T  
11 witness' Pellerin's testimony?

12 A. Parts of it. Sometimes I can only  
13 hear bits and pieces. I cannot hear all of it.

14 Q. Do you recall hearing her say that  
15 AT&T did charge the IXC for services that it  
16 provided?

17 A. I don't recall.

18 Q. Okay. Did you review Ms. Pellerin's  
19 testimony?

20 A. Yes.

21 Q. And did you read her testimony where  
22 she acknowledged that AT&T does provide services

1 to the IXC's?

2 A. I don't know where are you looking  
3 at.

4 Q. So I have to ask this question.  
5 We've talked about 251(c)(2) and you've agreed  
6 with me that it is for the transmission and  
7 routing of telephone exchange service and the  
8 exchange access?

9 A. That's what -- the access.

10 Q. Okay. That's great. I agree with  
11 that. Can you tell me what you believe exchange  
12 access is?

13 A. I think I have explained it in my  
14 first sentence.

15 MS. ERICSON: I will object to that  
16 question. It has been asked and answered several  
17 times.

18 JUDGE HAYNES: Sustained.

19 BY MR. PFAFF:

20 Q. I'd like to show you part of the FCC  
21 rules, please. Did you rely upon the FCC rules in  
22 coming up with your conclusion?

1           A.       Which conclusions? Sorry.

2           Q.       The Part 51 rules.

3           A.       I look at that and I also -- I think  
4 I explained I look at FCC's brief, FCC's  
5 interpretation on the Section 251(c)(2)  
6 interconnection and US Supreme Court decision.

7           Q.       I'd like to show you Part 51 of the  
8 FCC's rules. Do you --

9                   MR. ANDERSON: Do you have other  
10 copies of that? I don't know if you were passing  
11 copies around.

12 BY MR. PFAFF:

13           Q.       Let me ask this question. Dr. Liu,  
14 in putting together your testimony on the use of  
15 Interconnection Facilities, did you rely upon the  
16 FCC's rules in reaching your conclusions?

17           A.       Can I ask a clarification?

18           Q.       Sure.

19           A.       Which part of my conclusion?

20           Q.       The part that says that 251(c)(2) is  
21 limited to traffic exchange between end users.

22           A.       I read the rule, but the rule is not

1     so clear and I think FCC provide more clear  
2     interpretation in its brief.

3             Q.       I'm sorry I wasn't clear before.  
4     I'm talking about the FCC regulations, not the  
5     statute.

6             A.       I know.

7             Q.       So did you read the Part 51  
8     regulations?

9             A.       Yes.

10            Q.       Okay. Then let's look at them. You  
11     have before you Part 51.5 of the Code of Federal  
12     Regulations, do you see that?

13            A.       Sorry. Which section?

14            Q.       Not the statute. These are the FCC  
15     rules.

16            A.       I know it's the FCC rules. Which  
17     section?

18            Q.       I'd like to turn your attention to  
19     the second page and -- I'm sorry. This is  
20     Section 51.5. It the terms and definitions,  
21     correct?

22            A.       Okay.

1           Q.       And, within that, the definition of  
2     interconnection?

3           A.       Yes.

4           Q.       Do you see it says "Interconnection  
5     is the linking of two networks for the mutual  
6     exchange of traffic," do you see that?

7           A.       Yes.

8           Q.       Did you rely upon that definition in  
9     reaching your conclusion?

10          A.       That definition is consistent with  
11     FCC's interpretation in a brief.

12          Q.       And just to be clear. There is  
13     nothing in that definition that says the exchange  
14     of traffic between a parties' end users, correct?

15          A.       It's a mutual exchange traffic. I  
16     understand that to mean the same thing.

17          Q.       I'd like to turn your attention next  
18     to -- do we have 51.305?

19                   JUDGE HAYNES: We'll take copies.

20     BY MR. PFAFF:

21          Q.       Do you see Section 51.305 in front  
22     of you, Dr. Liu?



1           A.       Yes.

2           Q.       Is this another rule that you  
3 reviewed in preparation for your testimony?

4           A.       Yes, I have reviewed.

5           Q.       And 51.305(a)(1) says that  
6 "Incumbent LEC's shall provide for the facilities  
7 and equipment of any requesting telecommunications  
8 carrier, interconnection with the incumbent LEC's  
9 network for the transmission and routing of  
10 telephone exchange traffic, exchange access  
11 traffic or both," is that what it says?

12          A.       It says "shall provide for the  
13 facilities and equipment." It doesn't say "should  
14 provide facilities."

15          Q.       I am sorry. I wasn't even asking  
16 about that. I was asking about the part that says  
17 "Interconnection with the incumbent LEC's network  
18 for the transmission and routing of telephone  
19 exchange traffic, exchange access traffic or  
20 both," correct?

21          A.       I believe the rules here tracks the  
22 language in the statute.

1           Q.       And just because I like the  
2       question, I'm going to ask it again.  Nothing in  
3       that rule limits it to end users, correct?

4           A.       It doesn't say so.

5           Q.       Thank you.

6           A.       This is FCC rules.  I think FCC  
7       implication is --

8           Q.       You rely heavily on the Talk America  
9       decision in your opinion that 251(c)(2) traffic is  
10      between parties' end users, is that correct?

11          A.       Yes, I believe that provides a  
12      reasonable interpretation.

13          Q.       Did you cite to any other authority  
14      in your testimony for your proposition that  
15      251(c)(2) traffic is limited to end users?

16          A.       I think I cited two most important  
17      authorities; Supreme Court and FCC.

18          Q.       But both of those decisions were in  
19      the Talk America case, correct?

20          A.       Yes, the case is about the  
21      incumbent's duty to provide cost base facility.

22          Q.       You understand that -- and I'm

1     sorry.  I'm going to jump ahead.  I'm sure we'll  
2     all be happy to hear that.  You don't believe the  
3     transit traffic should be exchanged over 251(c)(2)  
4     facilities, correct?

5             A.        I didn't say that.  I said transit  
6     traffic is not Section 251(c)(2) traffic.  Should  
7     or should not be.  I'm simply saying it's not  
8     Section 251(c)(2) traffic.  Sprint doesn't not  
9     have the right -- the legal rights to demand -- to  
10    carry the traffic.

11                    MS. ERICSON:  Counsel, can you tell  
12    us where you are in her testimony because this  
13    line has already been asked and answered by  
14    Dr. Liu?

15                    MR. PFAFF:  I'm actually not really  
16    in her testimony.  I'm outside of her testimony.

17                    MS. ERICSON:  If you're outside the  
18    testimony, then I would object to the questions.

19                    MR. PFAFF:  I think I have a little  
20    bit of leeway to ask her questions, again, about  
21    the basis for her conclusions that she reached in  
22    her testimony.  I won't go too far.

1 JUDGE HAYNES: With the term  
2 "again," are these asked and answered already?

3 MR. PFAFF: No. I'm sorry. I was  
4 responding to the Commission. I was responding to  
5 Ms. Ericson.

6 JUDGE HAYNES: It depends on where  
7 you were going. You said you were going to ask  
8 this question again. So don't.

9 BY MR. CHIARELLI:

10 Q. I want to ask this question. Are  
11 you aware that any other state commissions have  
12 ruled that transit service is a Section 251  
13 obligation?

14 A. There might be some.

15 Q. So you are aware that some  
16 commissions have ruled that?

17 A. Yes.

18 Q. And in order to make that ruling  
19 those commissions would have had to reach the  
20 conclusion that transit traffic was Section 251  
21 traffic, correct?

22 A. I have no idea how other commissions

1 reach that decision.

2 Q. Okay. All right. I'd like to move  
3 your attention to page -- to line 592. This is in  
4 the area of your testimony dealing with the  
5 disconnection of POI's. Issue 16, I believe. Are  
6 you there?

7 JUDGE HAYNES: I missed the page.

8 MR. PFAFF: I'm sorry. Pages 24.

9 BY THE WITNESS:

10 A. What is the line number? Sorry.

11 BY MR. PFAFF:

12 Q. Line 592. Are you with me?

13 A. Yes.

14 Q. Starting on line 592, you say  
15 "Interconnection established pursuant to Section  
16 251(c)(2) is solely established at the requesting  
17 carrier's discretion based on the requesting  
18 carrier's economic interest," is that what you  
19 say?

20 A. Yes.

21 Q. And it's your view that has to do  
22 with a requesting carrier electing where to

1 establish POI's, is that correct?

2 A. Establishing POI, yes.

3 Q. And you further -- you go on to say  
4 that "Such interconnection does not take into  
5 account the economic interest of the incumbent  
6 LEC," correct?

7 A. Sorry. Can you repeat that? Can  
8 you repeat the question, please?

9 Q. Absolutely. I'm sorry. Do you want  
10 to take a drink?

11 A. No, it's okay. Go ahead.

12 Q. You go onto say starting on line 594  
13 that "Such interconnection does not take into  
14 account the economic interest of incumbent LEC,"  
15 correct?

16 A. I think it means Section 251(c)(2)  
17 requirement does not allow the consideration of  
18 incumbent's economic interest.

19 Q. I'm sorry. I really did not --  
20 could you slow down and say that again, please?

21 A. I said Section 251(c)(2) does not  
22 permit the consideration of economic interest of

1 the incumbent in terms of whether to accept  
2 interconnection and location of interconnection.

3 Q. Do you understand that in order to  
4 get to a POI Sprint leases facilities from AT&T or  
5 another carrier?

6 A. That would be one of the options it  
7 will have.

8 Q. And I understand that's one of the  
9 options. My question is do you understand whether  
10 Sprint leases those from AT&T, if you know?

11 A. Well, based on the dispute in this  
12 case, the case in this proceeding regarding the  
13 rates at which Sprint should pay, I suppose Sprint  
14 does.

15 Q. Okay. I think that's fair to say.  
16 Now, did you see in the testimony, and I believe  
17 it was Mr. Burt's testimony although I won't swear  
18 to that, he claims that Sprint has in excess of 70  
19 POI's in Illinois, do you remember?

20 A. I also remember AT&T disagreed with  
21 the number.

22 Q. Fair enough. Do you recall whether

1 or not AT&T said there were fewer or said there  
2 were more?

3 A. I thought AT&T said number of POI's  
4 were half the number. I don't remember the exact.

5 Q. Okay. Do you believe that Sprint if  
6 Sprint has to pay to get the facilities to the  
7 POI, do you believe that Sprint should have to  
8 continue to pay for 70 POI's if it doesn't feel  
9 that they are necessary?

10 A. I'm not sure of the word you use  
11 should. We are here talking about what is  
12 Sprint's legal rights. Not what Sprint should or  
13 should not do from an economic point of view.

14 Q. So let's talk about the legal  
15 rights. Can you point to any rule or FCC order  
16 that indicates that Sprint cannot dismantle an  
17 existing POI at its discretion?

18 A. I think the issue is not whether  
19 there is a group that prohibit. The point is  
20 there is no rule allow giving Sprint rights. So  
21 Sprint does not have legal lights because the  
22 statute has not granted the legal rights.



1           Q.       I'm sorry, Dr. Liu. Can you point  
2 to any rule that indicates that Sprint cannot  
3 dismantle an existing POI at its discretion?

4           MS. ERICSON: Asked and answered.

5           MR. PFAFF: Judge, she didn't answer  
6 the question.

7           JUDGE HAYNES: Sustained.

8 BY MR. PFAFF:

9           Q.       Did you reflect any such rule or  
10 order in your testimony?

11          A.       I looked at the rule. I didn't find  
12 any rule or law giving Sprint the rights.

13          Q.       You didn't find any rule that says  
14 that it can't either, correct?

15          A.       Sprint is not prohibited. Sprint  
16 may do it if Sprint is in agreement with AT&T or  
17 permitted by the Commission.

18          Q.       You would agree with me that the  
19 requesting carrier gets to decide where it's going  
20 to establish interconnection, correct?

21          A.       Yes.

22          Q.       And that 251(c)(2), do you still

1 have that in front of you?

2 A. Yes.

3 Q. This is Part 251(c)(2) "The duty to  
4 provide for the facilities and equipment of any  
5 requesting telecommunications carrier," is that  
6 what it says?

7 A. Yes, that's what it says.

8 Q. Is there another rule or statute  
9 that addresses the rights of existing carriers?

10 A. No.

11 Q. Are you aware that Sprint is  
12 decommissioning -- let me ask this question. Have  
13 you heard the testimony in the last several days  
14 about Sprint's IDEN network?

15 A. I heard some of it, but not all of  
16 it.

17 Q. Did you hear the testimony that  
18 indicated that Sprint was decommissioning its IDEN  
19 network?

20 A. I've heard of it.

21 Q. And Sprint is going to cease  
22 providing IDEN service?

1           A.       I don't know about that part.

2           Q.       You're not suggesting that Sprint  
3 would need to maintain the POI's associated with  
4 its IDEN network, are you?

5           A.       The Commission has addressed the  
6 issue and the Commission's decision is Sprint --  
7 we're not talking Sprint should or should not do.  
8 It simply says before Sprint decommissions any  
9 POI, we need to consider impact of such  
10 decommissioning.

11          Q.       If Sprint is no longer going to  
12 operate the IDEN network or provide service to its  
13 IDEN customers, should it be required to maintain  
14 POI's associated with that network?

15          A.       I think --

16                   MS. ERICSON:  Objection.  
17 Speculation.

18                   JUDGE HAYNES:  Overruled.  You can  
19 answer, Dr. Liu.  Do you remember the question?

20 BY THE WITNESS:

21          A.       Can you repeat the question?

22                   JUDGE HAYNES:  Can you restate it,

1 please?

2 MR. PFAFF: Do you want the court  
3 reporter to or me to?

4 JUDGE HAYNES: No. You, Mr. Pfaff.

5 BY MR. PFAFF:

6 Q. You're not suggesting that Sprint  
7 should need to maintain the POI's for its IDEN  
8 network when it is going to be decommissioning  
9 that network and it will cease providing service  
10 using that network, are you?

11 A. I'm not suggesting anything about  
12 the decommissioning. I'm simply saying based on  
13 Commission's decision in the past, the impact of  
14 such decommissioning should be considered before  
15 the decommissioning may go forward.

16 Q. In your testimony -- and I'm going  
17 to move to the part of your testimony where you  
18 discuss the threshold for establishing new POI's?

19 A. Yes.

20 Q. Can you point to me where it is and  
21 where you refer to?

22 MR. LANNON: Before we get there or

1 go there, can I just interject? I'm not sure  
2 Dr. Liu knew she was going to be here after 5:00.  
3 So I'm just wondering how much more --

4 MR. PFAFF: I'll have two questions.

5 MR. LANNON: And AT&T has some  
6 cross, is that right?

7 MR. ORTLIEB: While we were sitting  
8 here, I just cut it from 20 to 10.

9 MR. LANNON: That's good. Thank  
10 you.

11 JUDGE HAYNES: Okay.

12 MR. PFAFF: While we're bragging,  
13 I've cut a substantial amount of mine, too.

14 JUDGE HAYNES: That has yet to be  
15 seen. What page are you on in her testimony?

16 MR. PFAFF: It's issue 17 and it's  
17 the threshold at which additional POI's need to be  
18 established and I apologize I'm not at the exact  
19 page, but I think Dr. Liu can handle this.

20 BY MR. PFAFF:

21 Q. Your testimony was that the  
22 threshold where additional POI's should have to be

1 established is in an OC 12, is that correct?

2 A. I believe that's the Commission's  
3 decision in the prior arbitration.

4 MR. PFAFF: That's it.

5 JUDGE HAYNES: Thank you. AT&T?

6 C R O S S E X A M I N A T I O N

7 BY MR. ORTLIEB

8 Q. Good evening, Dr. Liu. My name is  
9 Mark Ortlieb. I have some questions for you that  
10 deal with issue 17. So if you can please turn to  
11 page 31 and I will point you to lines 747, 748  
12 where you say that "AT&T has not presented any new  
13 evidence in this proceeding to warrant a departure  
14 from that Commission finding," do you see that?

15 A. Yes.

16 Q. And that Commission finding that  
17 you're referring to there is the OC 12 that  
18 Mr. Pfaff just talked about a moment ago?

19 A. That's correct.

20 Q. Did you review Mr. Albright's  
21 rebuttal testimony in this proceeding?

22 A. Yes.

1           Q.       And are you aware that he provided  
2       traffic data on volumes that currently exist?

3           A.       Yes.

4           Q.       And do you understand that his point  
5       was that only two out of 773 such POI's met that  
6       OC 12 traffic threshold?

7           A.       Yes.

8           Q.       How does Mr. Albright's new data  
9       affect your analysis of this issue?

10          A.       It does not change my position.

11          Q.       Does -- is this something that staff  
12       is still weighing or thinking about?

13          A.       No.

14          Q.       Would you agree with me that in  
15       light of Mr. Albright's new data that an OC 12  
16       traffic threshold is effectively the same as  
17       having no threshold at all?

18          A.       In practice, yes. I mean, it's not  
19       if you say the trigger is not binding for any --  
20       for most of -- for majority of existing CLEC's,  
21       the answer is yes.

22          Q.       Is it correct to say your OC 12

1 traffic threshold proposal applies only to the  
2 establishment of a new POI?

3 A. Yes.

4 Q. In other words, in your testimony in  
5 issue 17, it does not say anything about the  
6 traffic threshold for decommissioning of a POI?

7 A. No, it does not apply to  
8 decommissioning. In fact, I did not and I do not  
9 recommend using the trigger for decommissioning.  
10 That approach would be inconsistent with the  
11 Commission's decision in the past.

12 Q. And that Commission -- that  
13 Commission --

14 A. The decision on the decommissioning.

15 Q. On decommissioning. That actually  
16 references carrier-to-carrier negotiation and, if  
17 needed, Commission dispute resolution, is that  
18 correct?

19 A. Yes.

20 MR. ORTLIEB: Thank you very much.

21 I have no further questions.

22 JUDGE HAYNES: Okay.



1 THE WITNESS: Thank you.

2 JUDGE HAYNES: Redirect?

3 MS. ERICSON: Can we have a minute?

4 JUDGE HAYNES: Yes.

5 (Whereupon, a break was taken  
6 after which the following  
7 proceedings were had.)

8 THE COURT: Redirect?

9 MS. ERICSON: Staff has no questions  
10 on redirect.

11 THE COURT: Thank you.

12 MR. PFAFF: Thank you, Dr. Liu.

13 THE WITNESS: Thank you.

14 (Whereupon, a break was taken  
15 after which the following  
16 proceedings were had.)

17 JUDGE HAYNES: Back on the record.

18 The record is marked heard and taken.

19

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